

**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

A2Z Construction Services

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development.....	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment.....	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times.....	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES.....	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements.....	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements.....	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS.....	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City.....	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety.....	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance.....	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements.....	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review.....	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination.....	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and A2Z Construction Services (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3 AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4 AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5 Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6 Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7 Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8 Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9 CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10 Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11 City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12 City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13 City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14 City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15 City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16 Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17 Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18 Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19 Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20 Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21 County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22 Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23 Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24 Effective Date. “Effective Date” shall mean September 1, 2024.

2.25 Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

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Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26 Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27 Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28 Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29 Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30 Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31 Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32 Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38 Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39 NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40 Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41 Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42 Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43 Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44 Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45 Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46 Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47 Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49 Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50 Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51 Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52 SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53 Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54 Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55 Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56 Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 Commercial Edible Food Generator
- 2.58.2 Edible Food
- 2.58.3 Food Recovery
- 2.58.4 Food Recovery Organization
- 2.58.5 Food Recover Service
- 2.58.6 Large Event
- 2.58.7 Large Venue
- 2.58.8 Organic Waste
- 2.58.9 Tier One Commercial Edible Food Generator
- 2.58.10 Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2 Amendments to Scope of Franchise; Planning Area 51

3.2.1 The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2 As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3 As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4 Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 Limitations on Scope of Franchise.

3.4.1 *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, ^{A27}Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1 Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4 Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10 Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11 Franchisee's Containers

7.11.1 Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2 Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3 Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4 All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5 Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6 All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7 Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1 Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2 On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3 Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4 If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4 Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1 *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2 *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5 Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1 Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2 Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3 In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4 Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5 Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6 Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6 Precautions Regarding the Collection of Hazardous Materials.

8.6.1 *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2 *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7 Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1 As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2 Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3 At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1 Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2 Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3 Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4 Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5 Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6 Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8 Assistance with Organic Recycling Waivers

8.8.1 Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2 City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3 Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9 Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10 Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 General

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

9.2 Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 Each Collection Vehicle ^{A2Z} shall be registered with the California Department of Motor Vehicles.

9.3.3 Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6 As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7 Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8 Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9 Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10 Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11 Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12 Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13 Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14 Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15 No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16 Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17 Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18 Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19 The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4 Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5 City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6 Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3 the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4 a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5 a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6 a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7 the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8 the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9 the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10 a report of contamination monitoring activities including:

10.4.10.1 the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2 a description of the process used for determining the level of contamination;

10.4.10.3 a summary of actions taken in cases where contamination was identified

10.4.11 a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12 a report of activities related to Edible Food Generators including:

10.4.12.1 the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2 the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 a report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 *Indemnification Requirements.* Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 *Assistance to City; Payment of Fees, Fines, and Penalties.* In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) Assist City in responding to inquiries from CalRecycle;

(b) Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 General Indemnification.

15.1.1 Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2 Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3 The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2 Hazardous Substances Indemnification.

15.2.1 Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1 results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2 relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2 Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1 any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2 any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3 any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4 any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3 Additional Indemnification Requirements.

15.3.1 The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2 The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3 With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4 Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5 Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1 Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4 Workers’ Compensation Insurance.

16.4.1 In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5 Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6 Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3 In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5 City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6 City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7 Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8 Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1 Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2 Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3 Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4 Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9 City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1 Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2 Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3 Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

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

20.11 Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: A2Z CONSTRUCTION SERVICES
14271 JEFFERY RD. # 502
IRVINE, CA 92620

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice


of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

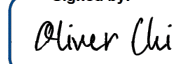
CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49E95474A7...


City Attorney

Date: 8/30/2024

Signed by:

7809AA719A2B4C7...
By: _____
City Manager

ATTEST:

Date: 8/30/2024

DocuSigned by:

0FCAD91F02E547D...
By: _____
City Clerk

Date: 08/26/2024

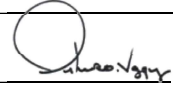
Franchisee A2Z Construction Services
By: Arturo Vasquez 
Title: President

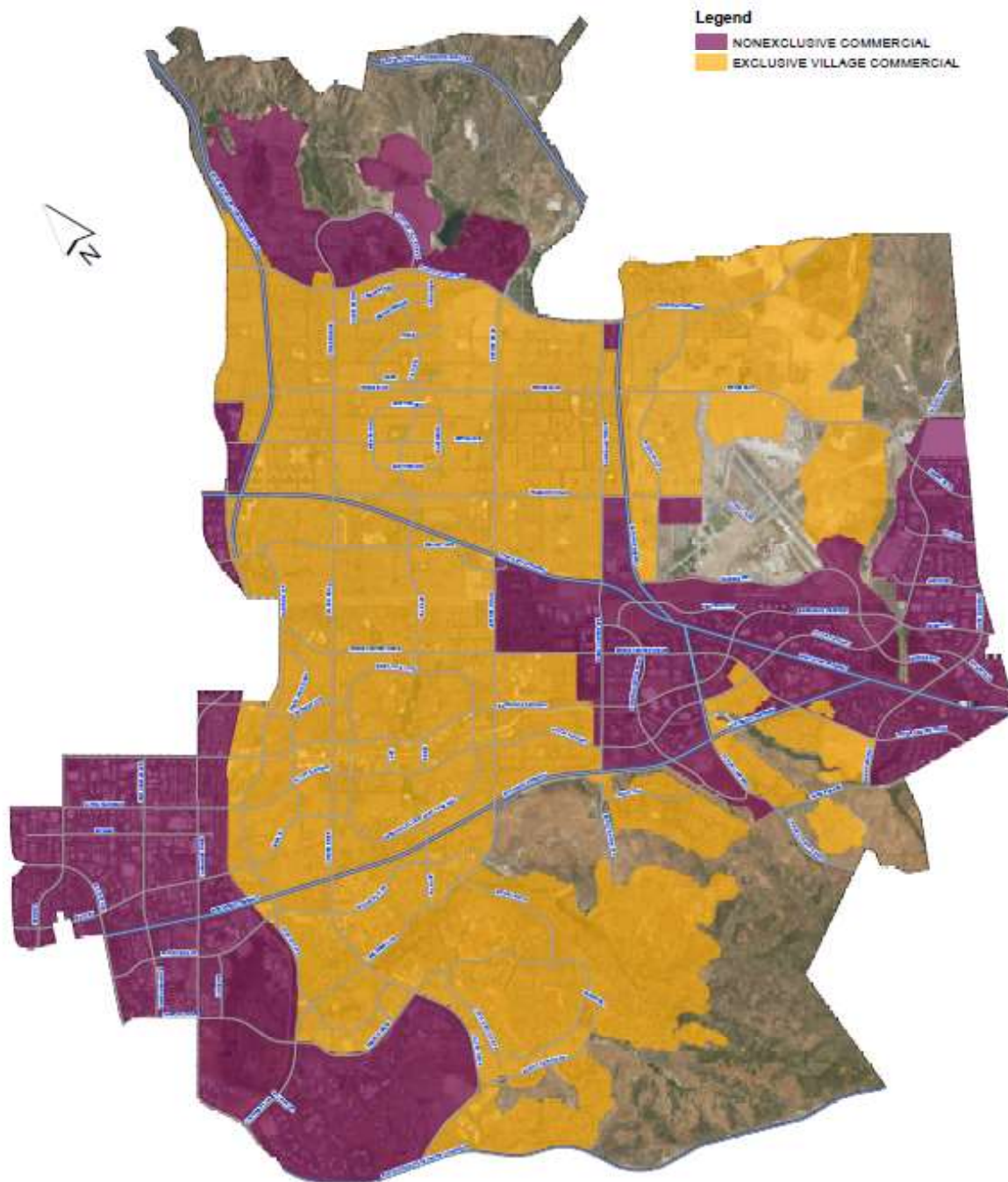
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C

Workers' Compensation Insurance Certification

Contract Services Description: C & D Hauler

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	08/26/2024
Contracting Firm:	A2Z Construction Services, Inc.
Signature:	
Title:	President
Address:	14271 Jeffrey Rd. #502, Irvine, CA 92620



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/29/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Shank & Associates 10091 Park Run Drive Suite 200 Las Vegas NV 89145	CONTACT NAME: Devin Costa PHONE (A/C No. Ext): (702) 878-2820 FAX (A/C No.): (702) 870-1263 E-MAIL ADDRESS: devin@swartsmanning.com														
INSURED A2Z Construction Services, Inc. 14271 Jeffrey Rd. Suite 502 Irvine CA 92620	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Berkley Specialty Insurance Company</td> <td></td> </tr> <tr> <td>INSURER B: Clear Blue Specialty Insurance Co</td> <td>37745</td> </tr> <tr> <td>INSURER C: Evanston Insurance Company</td> <td>35378</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Berkley Specialty Insurance Company		INSURER B: Clear Blue Specialty Insurance Co	37745	INSURER C: Evanston Insurance Company	35378	INSURER D:		INSURER E:		INSURER F:	
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INSURER C: Evanston Insurance Company	35378														
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES**CERTIFICATE NUMBER:** 24-25 GL Master**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	X	Y	CGL0223060	4/11/2024	4/11/2025	EACH OCCURRENCE \$ 1,000,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000	
							MED EXP (Any one person) \$ 5,000	
							PERSONAL & ADV INJURY \$ 1,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						GENERAL AGGREGATE \$ 2,000,000	
	OTHER:						PRODUCTS - COMP/OP AGG \$ 2,000,000	
							Pollution Liability \$	
B	AUTOMOBILE LIABILITY	X		BW03-STR-2300047-01	12/25/2023	12/25/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000	
	<input type="checkbox"/> ANY AUTO						<input checked="" type="checkbox"/> SCHEDULED AUTOS	BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						<input checked="" type="checkbox"/> NON-OWNED AUTOS	BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS							PROPERTY DAMAGE (Per accident) \$
							Medical payments \$ 5,000	
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR			CX0223062	4/11/2024	4/11/2025	EACH OCCURRENCE \$ 5,000,000	
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$ 5,000,000	
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$							
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>	
							E.L. EACH ACCIDENT \$	
							E.L. DISEASE - EA EMPLOYEE \$	
							E.L. DISEASE - POLICY LIMIT \$	
C	Inland Marine			2AA401179	2/22/2024	2/22/2025	Leased & Rented Equipment \$25,000 Deductible \$1,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: All Operations. The certificate holder is named as Additional Insured per GL forms CG2010 (07/04), Completed Operations applies per GL form CG2037 (07/04) & BAUT per form CA 2048 (10/13). Insurance coverage is primary and non-contributory to any other insurance available to the certificate holder per GL form CG2001 (04/13). Waiver of Subrogation applies per GL form CG2404 (10/93).

CERTIFICATE HOLDER**CANCELLATION**

baldwinsons@paladinriskmanage

City of Irvine
 1 Civic Center Plaza
 Irvine, CA 92606

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Tim Shank/DC2

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ACORD 25 (2014/01)

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INS025 (201401)

POLICY NUMBER: 0223060-20

COMMERCIAL GENERAL LIABILITY
CG 20 37 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES OR
CONTRACTORS - COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART**SCHEDULE****Name Of Additional Insured Person(s) Or Organization(s)**As per written contract prior to a
loss**Location And Description Of Completed Operations**602 S Santa Fe St
Santa Ana, CA 92705

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A. Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US - AUTOMATIC STATUS WHEN
REQUIRED IN CONTRACT OR AGREEMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is **added** to **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV - Commercial General Liability Conditions**:

We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf in the performance of your ongoing operations or "your work" done under a written contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only when you and that person or organization have agreed to such waiver in writing in a contract or agreement.

All other terms and conditions of this policy remain unchanged.

POLICY NUMBER: CF4CA01302201

COMMERCIAL AUTO
CA 20 48 10 13**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****DESIGNATED INSURED FOR
COVERED AUTOS LIABILITY COVERAGE**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:**Endorsement Effective Date:****SCHEDULE****Name Of Person(s) Or Organization(s):**

ALL PERSONS OR ORGANIZATIONS AS REQUIRED BY WRITTEN CONTRACT WITH THE NAMED INSURED. THE WRITTEN CONTRACT MUST BE SIGNED PRIOR TO THE DATE OF THE "ACCIDENT".

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.



CERTIFICATE OF LIABILITY INSURANCE

Acct#: 2786630

DATE (MM/DD/YYYY)

8/5/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Insurance Services, LLC 2502 N Rocky Point Drive Tampa, FL 33607	CONTACT NAME: PHONE (A/C, No. Ext): 844-290-4908		FAX (A/C, No):
	E-MAIL ADDRESS: BBSlcerts@locktonaffinity.com		
INSURED A2Z CONSTRUCTION SERVICES 14271 JEFFREY RD PMB 502, IRVINE, CA 92620	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Ace American Insurance Company		22667
	INSURER B :		
	INSURER C :		
	INSURER D :		
	INSURER E :		
INSURER F :			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$	
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED <input type="checkbox"/> NON-OWNED <input type="checkbox"/> AUTOS ONLY <input type="checkbox"/> AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N <input type="checkbox"/>	N / A	X	C55605233	4/1/2024	4/1/2025	X PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 2,000,000 E.L. DISEASE - EA EMPLOYEE \$ 2,000,000 E.L. DISEASE - POLICY LIMIT \$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Policy State = CA

Waiver of Subrogation in favor of certificate holder when required by written contract

30-Day Notice of Cancellation

CERTIFICATE HOLDER

City Of Irvine

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Lisa Abernathy

Workers' Compensation and Employers' Liability Policy	
Named Insured A2Z CONSTRUCTION SERVICES 14271 JEFFREY RD PMB 502, IRVINE, CA 92620	Endorsement Number
	Policy Number Symbol: WLR Number: C55605233
Policy Period 4/1/2024 TO 4/1/2025	Effective Date of Endorsement 8/5/2024
Issued By (Name of the Insurance Company) Ace American Insurance Company	
Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy. This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.	

CALIFORNIA WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because California is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule, where you are required by a written contract to obtain this waiver from us.

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

Schedule

1. () Specific Waiver
Name of person or organization:

(X) Blanket Waiver
Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:
ALL CALIFORNIA OPERATIONS

3. Premium:
The premium charge for this endorsement shall be 1.0 percent of the California premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Minimum Premium: \$0



Authorized Agent

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Facility Name:	Type of Material:	Street Address/City:	Phone Number:
Griffith Company	Asphalt & Concrete	11501 Jeffrey Rd, Irvine	1800-616-7625
Ewles Materials	Asphalt & Concrete	16081 Construction Cir Way, Irvine	949-728-0436
CR&R	Mixed C&D, brick, tile, cardboard, wood, carpet, dirt, drywall, flooring, appliances, rebar	11232 Knott Ave, Stanton	714-890-6300
OC Recycling	Metals, cardboard	1601 E Edinger Ave	714-732-9253
Global Metal Recycling	Metals	1011 E Pine Street Ave, Santa Ana	714-547-9079
Republic Services	Mixed C&D, brick, tile, cardboard, wood, carpet, dirt, drywall, flooring, appliances, rebar	1131 N Blue Gum Street, Anaheim	714-238-3301
Tierra Verde	Mixed C&D, concrete, brick, tile, cardboard, wood, carpet, dirt, glass, drywall, flooring, appliances, rebar	8065 Marine Way, Irvine	949-551-0363
WM - Sunset Environmental	Mixed C&D, brick, tile, wood, carpet, drywall, flooring, appliances, rebar.	16122 Construction Cir Way, Irvine	949-654-1562
Frank R. Bowerman Landfill	Universal waste	11022 Bee Canyon Access Rd, Irvine	949-262-2420
Greenstone Materials	Asphalt, concrete, brick, wood, metal, dirt, rebar	San Juan Capistrano	949-728-0500
Madison Materials	mixed c&d, concrete, brick, carpet, dirt, glass, drywall, flooring, appliances, rebar	Santa Ana	949-644-0159

Exhibit E**Implementation, Outreach and Education Plan****Construction and Demolition Recycling
SB 1383 Compliance Guide – City of Irvine**

In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Alta Environmental Services, Inc

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart	3
2.11 City	3
2.12 City Council	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code	6
2.38 Non-exclusive Franchise Agreement	7
2.39 NPDES	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment.....	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times.....	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities.....	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements.....	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City.....	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety.....	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance.....	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements.....	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review.....	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and Alta Environmental Services, Inc (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 RECITALS

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 DEFINITIONS

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3 AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4 AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5 Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6 Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7 Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8 Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9 CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10 Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11 City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12 City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13 City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14 City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15 City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16 Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17 Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18 Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19 Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20 Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21 County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22 Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23 Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24 Effective Date. “Effective Date” shall mean September 1, 2024.

2.25 Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26 Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27 Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28 Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29 Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30 Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31 Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32 Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38 Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39 NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40 Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41 Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42 Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43 Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44 Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45 Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46 Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47 Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49 Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50 Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51 Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52 SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53 Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54 Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55 Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56 Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 Commercial Edible Food Generator
- 2.58.2 Edible Food
- 2.58.3 Food Recovery
- 2.58.4 Food Recovery Organization
- 2.58.5 Food Recover Service
- 2.58.6 Large Event
- 2.58.7 Large Venue
- 2.58.8 Organic Waste
- 2.58.9 Tier One Commercial Edible Food Generator
- 2.58.10 Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2 Amendments to Scope of Franchise; Planning Area 51

3.2.1 The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2 As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3 As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4 Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 Limitations on Scope of Franchise.

3.4.1 *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 Public Resources Code Section 49523 Acknowledgment.

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1 Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4 Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10 Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11 Franchisee's Containers

7.11.1 Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2 Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3 Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4 All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5 Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6 All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7 Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1 Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2 On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3 Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4 If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4 Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1 *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2 *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5 Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1 Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2 Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3 In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4 Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5 Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6 Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6 Precautions Regarding the Collection of Hazardous Materials.

8.6.1 *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2 *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7 Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1 As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2 Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3 At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1 Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2 Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3 Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4 Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5 Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6 Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8 Assistance with Organic Recycling Waivers

8.8.1 Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2 City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3 Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9 Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10 Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 General

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

9.2 Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6 As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7 Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8 Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9 Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10 Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11 Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12 Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13 Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14 Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15 No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16 Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17 Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18 Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19 The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4 Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5 City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6 Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3 the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4 a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5 a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6 a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7 the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8 the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9 the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10 a report of contamination monitoring activities including:

10.4.10.1 the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2 a description of the process used for determining the level of contamination;

10.4.10.3 a summary of actions taken in cases where contamination was identified

10.4.11 a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12 a report of activities related to Edible Food Generators including:

10.4.12.1 the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2 the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 a report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2024 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 *Indemnification Requirements*. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 *Assistance to City; Payment of Fees, Fines, and Penalties*. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) Assist City in responding to inquiries from CalRecycle;

(b) Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 General Indemnification.

15.1.1 Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2 Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3 The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2 Hazardous Substances Indemnification.

15.2.1 Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1 results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2 relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2 Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1 any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2 any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3 any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4 any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3 Additional Indemnification Requirements.

15.3.1 The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2 The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3 With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4 Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5 Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1 Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4 Workers’ Compensation Insurance.

16.4.1 In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5 Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6 Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3 In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5 City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6 City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7 Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8 Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1 Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2 Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3 Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4 Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9 City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1 Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2 Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3 Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

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

20.11 Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Alta Environmental Services, Inc
Attn: Eric Brown
1147 Railroad St.
Corona, CA 92882

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

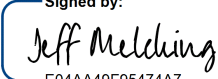
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.


IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:


Signed by:

E04AA49F95474A7...
City Attorney

Date: 9/4/2024

Signed by:

7800AA719A2B4C7...
By: _____
City Manager

ATTEST:

Date: 9/4/2024

DocuSigned by:

0FCAD91F02E547D...
By: _____
City Clerk

Date: 8/29/24


Franchisee Alta Environmental Services, Inc.
By: 
Title: President

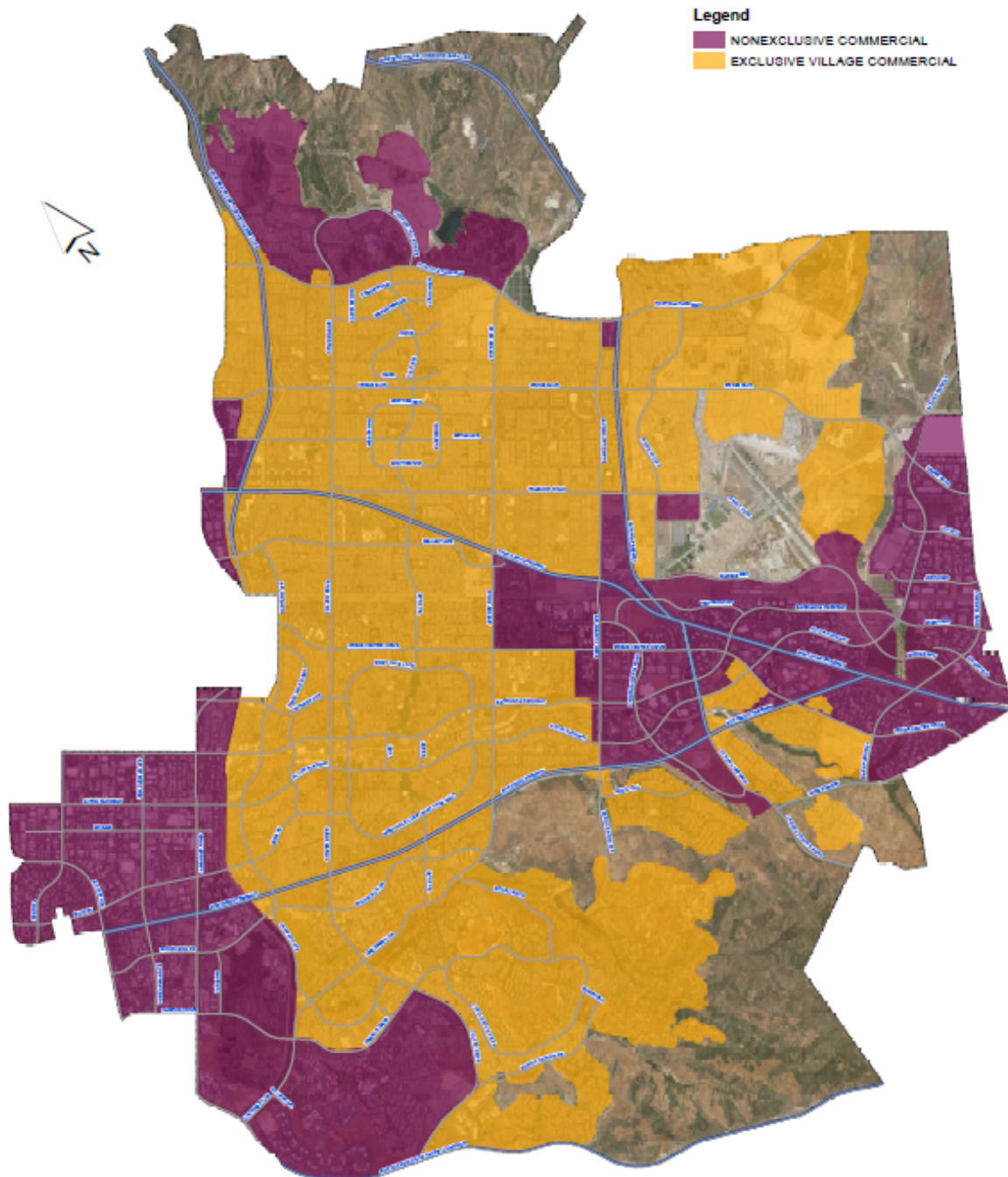
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Non Exclusive Waste Hauler**WORKERS' COMPENSATION DECLARATION**

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.


Dated:	8/29/24
Contracting Firm:	Alta Environmental Services, Inc
Signature:	
Title:	President
Address:	1147 Railroad St. Corona, CA 92882

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Sunset Environmental // 16122 Construction Circle West Irvine, CA 92606

Tierra Verde Industries //8065 Marine Way Irvine, CA 92618

SA RECYCLING // 1804 W5th St. Santa Ana, CA 92703

EWELS MATERIALS // 16081 Construction Cir W Irvine, CA 92606

Aguinaga Green // 1635 Construction Cir W Irvine, CA 92606



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/10/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Acrisure Southwest Partners Insurance Services, LLC 18952 MacArthur Blvd., Suite #300 Irvine, CA 92612 www.patrisk.com 0K07568	CONTACT NAME: Sondra Alvarado PHONE (A/C, No. Ext): 9494867902 E-MAIL ADDRESS: salvarado@patrisk.com INSURER(S) AFFORDING COVERAGE INSURER A: Benchmark Insurance Company INSURER B: Clear Spring Property & Casualty Company INSURER C: Key Risk Insurance Company INSURER D: Nautilus Insurance Company INSURER E: INSURER F:	FAX (A/C, No): NAIC # 41394 15563 10885 17370
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COVERAGES**CERTIFICATE NUMBER:** 82348938**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	MNGR-P-2000480-02	6/24/2024	6/24/2025	EACH OCCURRENCE \$3,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$3,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			BAP2037946-12	6/24/2024	6/24/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			FFX2037949-12 (UL BA ONLY)	6/24/2024	6/24/2025	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> Y <input type="checkbox"/> N/A		CWC03192300	6/24/2024	6/24/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Contractors Pollution Liability			MNGR-P-2000480-02	6/24/2024	6/24/2025	\$1,000,000 Each Pollution Condition Limit \$2,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: All Operations
Certificate Holder is named Additional Insured in regards to General Liability per the attached forms, per contract.
Insurance is Primary and Non Contributory. Waiver of Subrogation applies to General Liability
30-day notice of cancellation / 10-days for non-payment of premium.

CERTIFICATE HOLDER

All Operations

The City of Irvine
Public Works Department
PO Box 19575
Irvine CA 92623

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Dave Jacobson

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ACORD 25 (2016/03)

The ACORD name and logo are registered marks of ACORD



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/10/2024

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PRODUCER Acrisure Southwest Partners Insurance Services, LLC 18952 MacArthur Blvd., Suite #300 Irvine, CA 92612 www.patrisk.com 0K07568	CONTACT NAME: Sondra Alvarado PHONE (A/C, No. Ext): 9494867902 E-MAIL ADDRESS: salvarado@patrisk.com INSURER(S) AFFORDING COVERAGE INSURER A: Benchmark Insurance Company INSURER B: Clear Spring Property & Casualty Company INSURER C: Key Risk Insurance Company INSURER D: Nautilus Insurance Company INSURER E: INSURER F:	FAX (A/C, No): NAIC # 41394 15563 10885 17370
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COVERAGES**CERTIFICATE NUMBER:** 82348938**REVISION NUMBER:**

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	MNGR-P-2000480-02	6/24/2024	6/24/2025	EACH OCCURRENCE \$3,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$3,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			BAP2037946-12	6/24/2024	6/24/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			FFX2037949-12 (UL BA ONLY)	6/24/2024	6/24/2025	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> Y <input type="checkbox"/> N/A		CWC03192300	6/24/2024	6/24/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Contractors Pollution Liability			MNGR-P-2000480-02	6/24/2024	6/24/2025	\$1,000,000 Each Pollution Condition Limit \$2,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: All Operations
Certificate Holder is named Additional Insured in regards to General Liability per the attached forms, per contract.
Insurance is Primary and Non Contributory. Waiver of Subrogation applies to General Liability
30-day notice of cancellation / 10-days for non-payment of premium.

CERTIFICATE HOLDER

All Operations

The City of Irvine
Public Works Department
PO Box 19575
Irvine CA 92623

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Dave Jacobson

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ACORD 25 (2016/03)

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AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY Acrisure Southwest Partners Insurance Services, LLC		NAMED INSURED Alta Environmental Services, Inc 1147 Railroad Street Corona CA 92879
POLICY NUMBER FFX2037949-12		
CARRIER Nautilus Insurance Company	NAIC CODE 17370	EFFECTIVE DATE: 6/24/2024

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability (03/16)

HOLDER: The City of Irvine Public Works Department

ADDRESS: PO Box 19575 Irvine CA 92623

XS Liability Underlying Coverages - Business Auto Only BAP2037946-11 Effective
06/24/2024-25

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US**

Effective Date: 06/24/2024
Policy Number: MNGR-P-2000480-02
Insured Name: Alta Environmental Services, Inc.
Writing Company: Benchmark Specialty Insurance Company

This endorsement modifies insurance provided under the following:
**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CONTRACTORS POLLUTION LIABILITY POLICY
FOLLOW FORM EXCESS LIABILITY POLICY
PROFESSIONAL LIABILITY POLICY**

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S):
Any person(s) or organization(s) where required by written contract, executed prior to the start of Operations.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following condition is added to the policy and supersedes anything to the contrary:

We waive any right of recovery we may have against the person(s) or organization(s) shown in the SCHEDULE above because of payments we make for injury or damage arising out of your ongoing operations or **your work** (“your work”) done under a contract with that person(s) or organization(s) and included in the **products-completed operations hazard** (products-completed operations hazard/“products completed operations hazard”). This waiver applies only to the person(s) or organization(s) shown in the SCHEDULE of this endorsement.

ADDITIONAL INSURED ENDORSEMENT - OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

Effective Date: 06/24/2024
Policy Number: MNGR-P-2000480-02
Insured Name: Alta Environmental Services, Inc.
Writing Company: Benchmark Specialty Insurance Company

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CONTRACTORS POLLUTION LIABILITY POLICY

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S):
Any person(s) or organization(s) whom the Named Insured (Named Insured) agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.
LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:
Project locations in which this endorsement is required by contract.

The following condition is added to the policy and supersedes anything to the contrary:

SECTION II – Who Is An Insured is amended to include the person(s) or organization shown in the SCHEDULE as an additional insured, but only with respect to liability for **bodily injury** (“bodily injury”) or **property damage** (“property damage”) caused, in whole or in part, by **your work** (“your work”) at the location designated and described in the SCHEDULE of this endorsement performed for that additional insured and included in the **products-completed operations hazard** (“products-completed operations hazard”).

All other terms and conditions remain the same.

MG-UN-0005 07/2022

PRIMARY AND NON-CONTRIBUTORY ENDORSEMENT

Effective Date: 06/24/2024
Policy Number: MNGR-P-2000480-02
Insured Name: Alta Environmental Services, Inc.
Writing Company: Benchmark Specialty Insurance Company

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CONTRACTORS POLLUTION LIABILITY POLICY
PROFESSIONAL LIABILITY POLICY
SITE POLLUTION LIABILITY POLICY

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S):
Any person(s) or organization(s) whom the Named Insured (Named Insured) agrees, in a written contract, to provide Primary and/or Non-Contributory status of this insurance. However, this status exists only for the project specified in that contract.
LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:
Project locations in which this endorsement is required by contract.

The following condition is added to the policy and supersedes anything to the contrary:

This policy shall be considered primary to any similar insurance held by third parties in respect to work performed by an insured under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and noncontributory to this insurance.

**ADDITIONAL INSURED ENDORSEMENT - OWNERS,
LESSEES OR CONTRACTORS**

Effective Date: 06/24/2024
Policy Number: MNGR-P-2000480-02
Insured Name: Alta Environmental Services, Inc.
Writing Company: Benchmark Specialty Insurance Company

This endorsement modifies insurance provided under the following:
**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CONTRACTORS POLLUTION LIABILITY POLICY**

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S):

Any person(s) or organization(s) whom the **Named Insured** (Named Insured) agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

The following condition is added to the policy and supersedes anything to the contrary:

- A. SECTION II – WHO IS AN INSURED is amended to include the person(s) or organization shown in the SCHEDULE as an additional insured, but only with respect to liability arising out of your ongoing operations performed for that insured.
- B. With respect to the insurance afforded to these additional insureds, the following exclusion is added:

This insurance does not apply to **bodily injury** (“bodily injury”) or **property damage** (“property damage”) occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance, or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or
- (2) That portion of **your work** (“your work”) out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

All other terms and conditions remain the same.

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

BUSINESS AUTO – ADDITIONAL INSURED WHEN REQUIRED BY CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section II - Liability Coverage A. - Coverage, 1. Who is an Insured, is amended to add:

- d. Any person or organization to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into, excluding contracts or agreements for professional services, which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you. However, the insurance provided will not exceed the lesser of:
1. The coverage and/or limits of this policy; or
 2. The coverage and/or limits required by said contract or agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY Acrisure Southwest Partners Insurance Services, LLC		NAMED INSURED Alta Environmental Services, Inc 1147 Railroad Street Corona CA 92879
POLICY NUMBER FFX2037949-12		
CARRIER Nautilus Insurance Company	NAIC CODE 17370	EFFECTIVE DATE: 6/24/2024

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability (03/16)

HOLDER: The City of Irvine Public Works Department

ADDRESS: PO Box 19575 Irvine CA 92623

XS Liability Underlying Coverages - Business Auto Only BAP2037946-11 Effective 06/24/2024-25

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US**

Effective Date: 06/24/2024
Policy Number: MNGR-P-2000480-02
Insured Name: Alta Environmental Services, Inc.
Writing Company: Benchmark Specialty Insurance Company

This endorsement modifies insurance provided under the following:
**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CONTRACTORS POLLUTION LIABILITY POLICY
FOLLOW FORM EXCESS LIABILITY POLICY
PROFESSIONAL LIABILITY POLICY**

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S):
Any person(s) or organization(s) where required by written contract, executed prior to the start of Operations.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following condition is added to the policy and supersedes anything to the contrary:

We waive any right of recovery we may have against the person(s) or organization(s) shown in the SCHEDULE above because of payments we make for injury or damage arising out of your ongoing operations or **your work** (“your work”) done under a contract with that person(s) or organization(s) and included in the **products-completed operations hazard** (products-completed operations hazard/“products completed operations hazard”). This waiver applies only to the person(s) or organization(s) shown in the SCHEDULE of this endorsement.

ADDITIONAL INSURED ENDORSEMENT - OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

Effective Date: 06/24/2024
Policy Number: MNGR-P-2000480-02
Insured Name: Alta Environmental Services, Inc.
Writing Company: Benchmark Specialty Insurance Company

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CONTRACTORS POLLUTION LIABILITY POLICY

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S):
Any person(s) or organization(s) whom the Named Insured (Named Insured) agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.
LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:
Project locations in which this endorsement is required by contract.

The following condition is added to the policy and supersedes anything to the contrary:

SECTION II – Who Is An Insured is amended to include the person(s) or organization shown in the SCHEDULE as an additional insured, but only with respect to liability for **bodily injury** (“bodily injury”) or **property damage** (“property damage”) caused, in whole or in part, by **your work** (“your work”) at the location designated and described in the SCHEDULE of this endorsement performed for that additional insured and included in the **products-completed operations hazard** (“products-completed operations hazard”).

All other terms and conditions remain the same.

PRIMARY AND NON-CONTRIBUTORY ENDORSEMENT

Effective Date: 06/24/2024
Policy Number: MNGR-P-2000480-02
Insured Name: Alta Environmental Services, Inc.
Writing Company: Benchmark Specialty Insurance Company

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CONTRACTORS POLLUTION LIABILITY POLICY
PROFESSIONAL LIABILITY POLICY
SITE POLLUTION LIABILITY POLICY

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S):
Any person(s) or organization(s) whom the Named Insured (Named Insured) agrees, in a written contract, to provide Primary and/or Non-Contributory status of this insurance. However, this status exists only for the project specified in that contract.
LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:
Project locations in which this endorsement is required by contract.

The following condition is added to the policy and supersedes anything to the contrary:

This policy shall be considered primary to any similar insurance held by third parties in respect to work performed by an insured under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and noncontributory to this insurance.

**ADDITIONAL INSURED ENDORSEMENT - OWNERS,
LESSEES OR CONTRACTORS**

Effective Date: 06/24/2024
Policy Number: MNGR-P-2000480-02
Insured Name: Alta Environmental Services, Inc.
Writing Company: Benchmark Specialty Insurance Company

This endorsement modifies insurance provided under the following:
**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CONTRACTORS POLLUTION LIABILITY POLICY**

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S):

Any person(s) or organization(s) whom the **Named Insured** (Named Insured) agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

The following condition is added to the policy and supersedes anything to the contrary:

- A. SECTION II – WHO IS AN INSURED is amended to include the person(s) or organization shown in the SCHEDULE as an additional insured, but only with respect to liability arising out of your ongoing operations performed for that insured.
- B. With respect to the insurance afforded to these additional insureds, the following exclusion is added:

This insurance does not apply to **bodily injury** (“bodily injury”) or **property damage** (“property damage”) occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance, or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or
- (2) That portion of **your work** (“your work”) out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

All other terms and conditions remain the same.

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

BUSINESS AUTO – ADDITIONAL INSURED WHEN REQUIRED BY CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section II - Liability Coverage A. - Coverage, 1. Who is an Insured, is amended to add:

- d. Any person or organization to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into, excluding contracts or agreements for professional services, which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you. However, the insurance provided will not exceed the lesser of:
 - 1. The coverage and/or limits of this policy; or
 - 2. The coverage and/or limits required by said contract or agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Implementation Plan

Our methods for collecting Construction and Demolition (C&D) waste are tailored to meet the specific needs of construction projects and to ensure compliance with local, state, and federal regulations. The primary methods we utilize include:

On-Site Containers:

We provide large roll-off containers at construction sites for the collection of C&D waste. These containers are available in various sizes to accommodate different project scales. They are regularly serviced to ensure continuous waste collection.

Scheduled Pickups:

We offer scheduled pickups for C&D waste, ensuring that construction sites remain clear of debris. Waste is promptly transported to processing facilities. Pickups can be arranged on a regular basis or as needed. Dedicated C&D Waste Collection Teams:

Our specialized teams are trained in handling C&D materials, ensuring efficient and safe collection. These teams coordinate with site managers to optimize waste collection and diversion efforts.

Outreach and Education Plan

Education and Training:

We provide comprehensive training for our team members on proper waste segregation and recycling practices. This ensures that all workers on-site understand the importance of recycling and are proficient in separating materials appropriately.

Compliance with Regulations:

AB341 Related Waste:

For recyclable materials covered under the mandatory commercial recycling law (AB341), such as metals, wood, and cardboard, we have achieved an average diversion rate of 75%.

Our facilities are equipped to process these materials efficiently, ensuring high compliance.

AB1826 Organics:

In compliance with AB1826, which requires the diversion of organic materials, we have diverted approximately 70% of applicable organic C&D waste.

This includes wood and other organic components commonly found in construction debris.

C&D Specific Waste:

For all other C&D-specific waste, including concrete, asphalt, and other heavy materials, our diversion rate stands at 85%.

By partnering with specialized facilities like Ewels Recycling, we ensure that these materials are effectively recycled and repurposed.

Summary

Our reliance on these compliant and efficient processing facilities guarantees that our waste diversion practices meet or exceed regulatory standards, contributing to environmental sustainability and optimal waste management outcomes.

EXHIBIT E

Implementation, Outreach and Education Plan

Construction and Demolition Recycling SB 1383 Compliance Guide – City of Irvine



In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the [permitting](https://www.cityofirvine.org/c&d) process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

American Wrecking, Inc.

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development.....	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers.....	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements.....	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety.....	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements.....	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review.....	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and American Wrecking, Inc. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

2.58.1 ☐ Commercial Edible Food Generator

2.58.2 ☐ Edible Food

2.58.3 ☐ Food Recovery

2.58.4 ☐ Food Recovery Organization

2.58.5 ☐ Food Recover Service

2.58.6 ☐ Large Event

2.58.7 ☐ Large Venue

2.58.8 ☐ Organic Waste

2.58.9 ☐ Tier One Commercial Edible Food Generator

2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1□ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2□ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3□ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4□ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5□ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6□ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~The~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~The~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 ☐ Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 ☐ Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 ☐ Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 ☐ CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 ☐ Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: American Wrecking, Inc.
Attn: Carlos Galaviz
2459 Lee Ave.
South El Monte, CA 91733 91733

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 ☐ Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F95474A7...
City Attorney

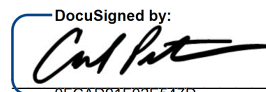
Date: 8/30/2024

Signed by:

7809AA719A2B4C7...
City Manager

ATTEST:

Date: 8/30/2024

DocuSigned by:

0FCAD91F02E547D...
City Clerk

Date: 8/16/2024

Franchisee American Wrecking, Inc.
By: Carlos Galaviz
Title: CFO

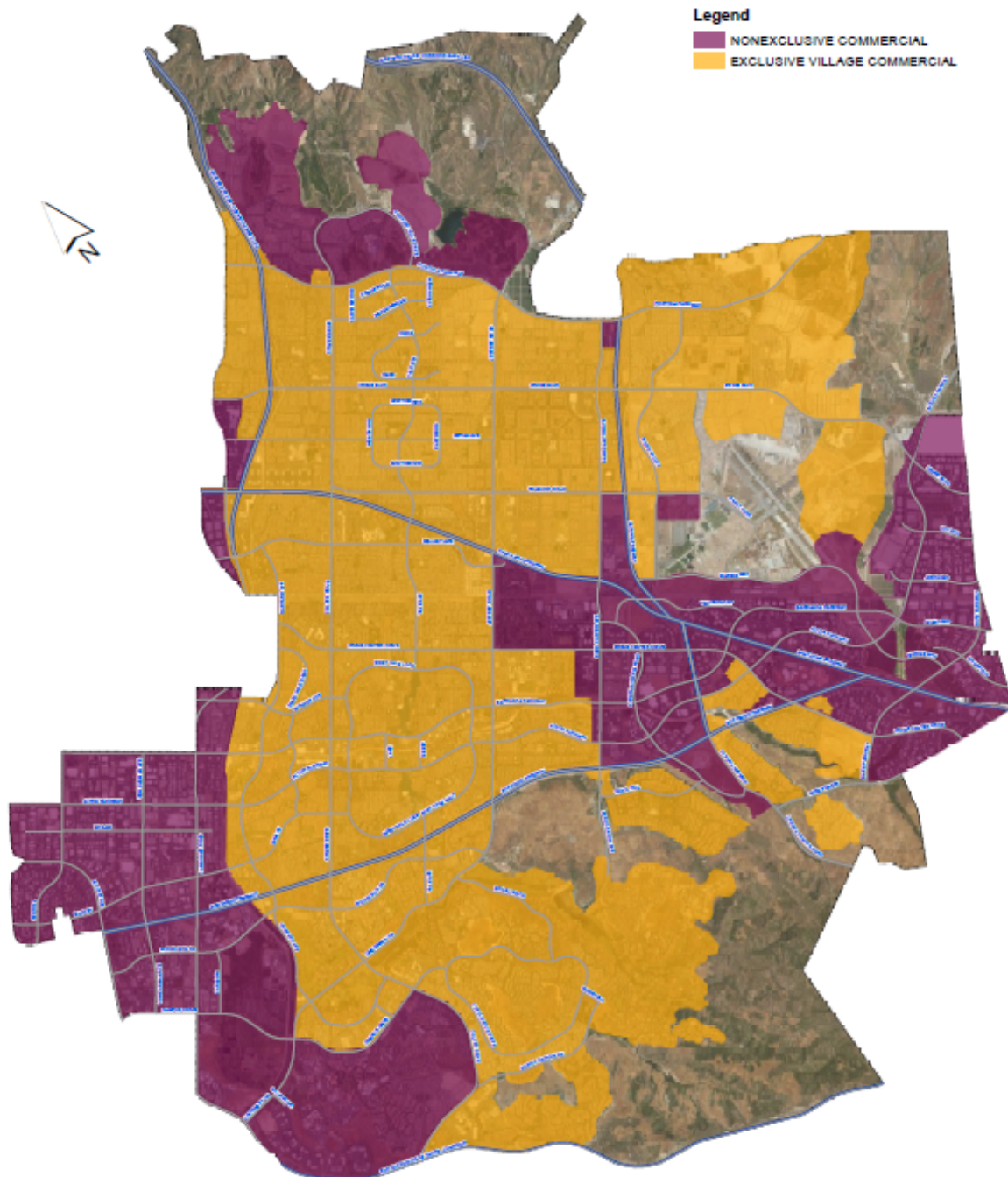
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**

Contract Services Description: Construction & Demolition projects within Irvine

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/16/2024
Contracting Firm:	American Wrecking, Inc.
Signature:	<i>Carlos Galaviz</i>
Title:	CFO
Address:	2459 Lee Ave. South El Monte, CA 91733



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
8/27/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Apollo General Insurance Agency, Inc. (I) P. O. Box 1508 Sonoma, California 95476	Phone: (707)996-2912 Fax: (707)996-7912	CONTACT NAME: Jerilee Carpenter PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL: jerilecc@apgen.com ADDRESS:														
INSURED American Wrecking, Inc. 2459 Lee Avenue South El Monte, CA 91733		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A: Everest Indemnity Insurance Company</td> <td>10851</td> </tr> <tr> <td>INSURER B: Everest Denali Insurance Company</td> <td>16044</td> </tr> <tr> <td>INSURER C: State Compensation Insurance Fund Of California</td> <td>35076</td> </tr> <tr> <td>INSURER D: Tokio Marine Specialty Insurance Company</td> <td>23850</td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Everest Indemnity Insurance Company	10851	INSURER B: Everest Denali Insurance Company	16044	INSURER C: State Compensation Insurance Fund Of California	35076	INSURER D: Tokio Marine Specialty Insurance Company	23850	INSURER E:		INSURER F:	
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INSURER E:																
INSURER F:																

COVERAGES

CERTIFICATE NUMBER: 1447

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	<input checked="" type="checkbox"/>	Y	CF4GL01371-241	4/28/2024	4/28/2025	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY	<input checked="" type="checkbox"/>	Y	CF4CA01390-231	9/1/2023	9/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$
							\$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR	<input checked="" type="checkbox"/>	Y	XC5EX01605-241	4/28/2024	4/28/2025	EACH OCCURRENCE \$ 5,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$ 5,000,000
	DED <input type="checkbox"/> RETENTION \$						\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	<input type="checkbox"/>	N/A	9161690-23	10/1/2023	10/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Pollution Liability	<input checked="" type="checkbox"/>	Y	PPK2657314-000	2/18/2024	2/18/2025	Per Occurrence: \$ 5,000,000
							Per Aggregate: \$ 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Operations of the Named Insured, City of Irvine is hereby added as Additional Insured if required by written contract per endorsement hereto. Coverage evidenced herein is primary and non-contributory. Waiver of Subrogation is provided, as required by written contract with the insured as respects coverage evidenced herein. Excess is follow form to the underlying General Liability, Commercial Auto and Workers Compensation Coverage listed. A 30 day written notice shall be mailed to the certificate holder at the address provided herein, should a described policy(s) be cancelled before the expiration date thereof; 10-day notice for non-payment of premium.

CERTIFICATE HOLDER

CANCELLATION

Holder's Nature of Interest : Additional Insured City of Irvine 1 Civic Center Plaza Irvine, CA 92606	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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POLICY NUMBER: CF4GL01371241

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Any person or organization that entered into a written contract with the Named Insured requiring such person(s) or organization(s) to be named as an additional insured with respect to the Named Insured's performance of operations at any location on behalf of such person(s) or organization(s).	ANY LOCATION FOR WHICH THE NAMED INSURED'S WORK IS PERFORMED FOR SUCH PERSON(S) OR ORGANIZATION(S)

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

POLICY NUMBER: CF4GL01371241

COMMERCIAL GENERAL LIABILITY
CG 20 37 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
ANY PERSON OR ORGANIZATION THAT ENTERED INTO A WRITTEN CONTRACT WITH THE NAMED INSURED REQUIRING SUCH PERSON(S) OR ORGANIZATION(S) TO BE INCLUDED AS AN ADDITIONAL INSURED.	ANY LOCATION FOR WHICH THE NAMED INSURED'S WORK WAS PERFORMED FOR SUCH PERSON(S) OR ORGANIZATION(S) FOR ANY COMPLETED OPERATIONS.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the Insurance afforded to these additional insureds, the following is added to Section III -- Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

POLICY NUMBER: CF4GL01371241

COMMERCIAL GENERAL LIABILITY
ECG 04 767 02 16

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY ENHANCEMENT ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The following is a summary of the Limits of Insurance and additional coverage provided by this endorsement. For complete details on specific coverage, please refer to policy language in this endorsement and the underlying Commercial General Liability Coverage Form.

Coverage Applicable	Enhancement
Non-Owned Watercraft	Less Than 50 Feet
Supplementary Payments – Ball Bonds	\$1,000
Supplementary Payments – Loss Of Earnings	\$500 per day
Newly Acquired Organizations – Extended Coverage	180 days
Subsidiaries As Insureds	Included
Fire Damage To Premises Rented To You	\$500,000
Notice To Company – Duties In The Event Of Occurrence, Claim Or Suit	Broadened
Waiver Of Subrogation	Broadened
Unintentional Failure To Disclose Hazards	Broadened

A. Non-Owned Watercraft

Paragraph g.(2) under Paragraph 2, Exclusions of Section I – Coverage A Bodily Injury And Property Damage Liability is replaced by the following:

- (2) A watercraft you do not own that is:
- (a) Less than 50 feet long; and
 - (b) Not being used to carry persons or property for a charge;

B. Supplementary Payments – Increased Limits

Paragraphs 1.b. and 1.d. under Supplementary Payments – Coverages A And B of Section I – Coverages are replaced by the following:

- b. Up to \$1000 for cost of ball bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the Insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

C. Newly Acquired Organizations – Extended Coverage

Paragraph 3.a. under Section II – Who Is An Insured is replaced by the following:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

D. Subsidiaries As Insureds

The following is added to Section II – Who Is An Insured:

- 4. Any subsidiary company in which you own a financial interest of more than 50% as of the effective date of this endorsement is included as a Named Insured. However, such organization is not a Named Insured:
 - a. If it is a partnership, joint venture or limited liability company;
 - b. If there is other similar insurance available to it;
 - c. If there is other similar insurance that would be available to it, but for the termination of the insurance or the exhaustion of its limits of insurance; or

- d. After you cease to own a financial interest of more than 50%.

E. Fire Damage To Premises Rented To You – Increased Limits

Paragraph 6, under Section III – Limits of Insurance is replaced by the following:

- 6. Subject to Paragraph 5, above, the most we will pay under Coverage A for damages because of "property damage" to any one premises while rented to you or temporarily occupied by you with permission of the owner is the greater of:

- a. \$500,000; or

- b. The Damage To Premises Rented To You Limit shown in the Declarations.

F. Notice To Company

The following is added to Condition 2, Duties In The Event Of Occurrence, Defense, Claim Or Suit under Section IV – Commercial General Liability Conditions:

- e. Your failure to first notify us of a claim will not invalidate coverage under this policy if the loss was inadvertently reported to another insurer. However, you must report any such "occurrence" to us within a reasonable time once you become aware of such error.

G. Unintentional Failure To Disclose Hazards

Condition 6, Representations under Section IV – Commercial General Liability Conditions is replaced by the following:

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

Any unintentional error or omission in the description of, or failure to completely describe, any premises or operations you intend to be covered by this Coverage Part, will not invalidate or affect coverage for those premises or operations. However, you must report any such error or omission to us as soon as reasonably possible after its discovery.

H. Waiver Of Subrogation

The following is added to Condition 8, Transfer Of Rights Of Recovery Against Others To Us of Section IV – Commercial General Liability Conditions:

We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your operations or "your work" done under a written agreement that requires you to waive your rights of recovery. The written agreement must be made prior to the date of the "occurrence".

POLICY NUMBER: CF4GL01371241

COMMERCIAL GENERAL LIABILITY
CG 20 01 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the Other Insurance Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

POLICY NUMBER: CF4CA01390231

COMMERCIAL AUTO
CA 20 48 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies Insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Name Of Person(s) Or Organization(s):

ALL PERSONS OR ORGANIZATIONS AS REQUIRED BY WRITTEN CONTRACT WITH THE NAMED INSURED. THE WRITTEN CONTRACT MUST BE SIGNED PRIOR TO THE DATE OF THE "ACCIDENT".

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph A.1. of Section II — Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph D.2. of Section I — Covered Autos Coverages of the Auto Dealers Coverage Form.

POLICY NUMBER: CF4CA01390231

COMMERCIAL AUTO
ECA 24 509 04 14

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION – BLANKET**

This endorsement modifies Insurance provided under the following:

BUSINESS AUTO COVERAGE PART

Paragraph c. of the Other Insurance General Condition is replaced by the following:

- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Liability Coverage is primary and we will not seek contribution from any other insurance for any liability assumed under an "insured contract" that requires liability to be assumed on a primary noncontributory basis.

Additionally, only the coverage and limit of insurance requirements of the "insured contract" shall apply, and in no event shall those requirements exceed the coverage and limits of insurance provided under this policy.

POLICY NUMBER: CF4CA01390231

COMMERCIAL AUTO
ECA 24 503 02 14

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

SCHEDULE

Name of Person or Organization:

ALL PERSONS OR ORGANIZATIONS AS REQUIRED BY WRITTEN CONTRACT
WITH THE NAMED INSURED. THE WRITTEN CONTRACT MUST BE SIGNED
PRIOR TO THE DATE OF THE "ACCIDENT".

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The **TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US** Condition is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for an "accident" or "loss", provided that you are required under a written agreement to waive your rights of recovery. The written agreement must be made prior to the date of the "accident" or "loss". This waiver applies only to the person or organization shown in the Schedule above.

ENDORSEMENT AGREEMENT



WAIVER OF SUBROGATION
BLANKET BASIS

REP 09
9161690-23
RENEWAL
NA
4-56-90-87
PAGE 1 OF 1

HOME OFFICE
SAN FRANCISCO

EFFECTIVE OCTOBER 1, 2023 AT 12.01 A.M.
AND EXPIRING OCTOBER 1, 2024 AT 12.01 A.M.

ALL EFFECTIVE DATES ARE
AT 12:01 AM PACIFIC
STANDARD TIME OR THE
TIME INDICATED AT
PACIFIC STANDARD TIME

AMERICAN WRECKING, INC.
2459 LEE AVE
SOUTH EL MONTE, CA 91733

WE HAVE THE RIGHT TO RECOVER OUR PAYMENTS FROM ANYONE
LIABLE FOR AN INJURY COVERED BY THIS POLICY. WE WILL
NOT ENFORCE OUR RIGHT AGAINST THE PERSON OR
ORGANIZATION NAMED IN THE SCHEDULE.

THIS AGREEMENT APPLIES ONLY TO THE EXTENT THAT YOU
PERFORM WORK UNDER A WRITTEN CONTRACT THAT REQUIRES YOU
TO OBTAIN THIS AGREEMENT FROM US.

THE ADDITIONAL PREMIUM FOR THIS ENDORSEMENT SHALL BE
2.00% OF THE TOTAL POLICY PREMIUM.

SCHEDULE

<u>PERSON OR ORGANIZATION</u>	<u>JOB DESCRIPTION</u>
ANY PERSON OR ORGANIZATION FOR WHOM THE NAMED INSURED HAS AGREED BY WRITTEN CONTRACT TO FURNISH THIS WAIVER	BLANKET WAIVER OF SUBROGATION

NOTHING IN THIS ENDORSEMENT SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND
ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS POLICY
OTHER THAN AS ABOVE STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE
HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR
LIMITATIONS IN THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO:

OCTOBER 3, 2023

AUTHORIZED REPRESENTATIVE

PRESIDENT AND CEO

EXHIBIT D**APPROVED FACILITIES**

(To be provided by Franchisee and approved by City Manager)

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
Frank R. Bowerman Landfill	C&D, Asphalt	11002 Bee Canyon Access Rd. Irvine, CA 92602	949 551 7100	info@ocwr.ocgov.com
Tierra Verde Industries	C&D	8065 Marine Way, Irvine, CA 92618	949 551 0363	click here to enter text.
BP John Recycling, Inc.	Green Waste	28700 Matthews Rd., Menifee, CA 92585	951 696 1144	click here to enter text.
SA Recycling	Scrap Metal	3200 E Frontera St., Anaheim, CA 92806	714 630 8901	Inquiries.anaheim-frontera@sarecycling.com
Vulcan Landfill Sun Valley	Asphalt	11520 Sheldon St., Shadow Hills, CA 91352	818 768 4157	click here to enter text.
California Waste Services	C&D	621 W 152nd St. Gardena, CA 90247	800 839 5550	info@californiawasteservices.com

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

LIC. # 685192 / DOSH # 884



As a demolition contractor, American Wrecking Inc.'s expertise is in on-site source separation. Waste streams will be segregated into materials that are 100% recyclable. Materials which are not source separated will be loaded and disposed of at recycling facilities or landfills located on the attached list.

In general, American Wrecking Inc. has been able to achieve an 85% or greater recycle/diversion rate on all past demolition projects.

It is the intent to only serve for disposal of C&D materials using 18 wheel end dumps and roll off trucks.

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

LIC. # 685192 / DOSH # 884



American Wrecking Inc's experience and future practices regarding different jurisdictions recycling requirements has always been a simple one to achieve. The main reason is simple, recycling is a practice that does not need to be mandated by any agency, it's a practice that American Wrecking Inc practices on a daily basis regardless of requirements.

For example, metals, structural lumber, concrete & asphalt recycling is our goal for one reason. It pays to recycle, which is why recycling is a core fundamental practice for American Wrecking Inc. Here's how we accomplish our goals and save money in the meantime.

- We send all of our concrete to our crushing sites or utilize concrete & asphalt recycling facilities to process the materials and create a usable material for other construction sites. Essentially, the cost to dump our materials at our sites and other sites are cheaper to dump at a landfill.
- Our employees have been trained on how to use fall protection which allows us the opportunity to save lumber.
- We also process as much scrap/recycle all of our metals so we can add additional income stream to a project. Hauling & dumping the metals at a recycling facility pays us per pound/ton, opposed to allowing the misc metals into our trash and pay a fee per pound to dispose of materials.
- American Wrecking Inc has also invested heavily in equipment to achieve our recycling goals by purchasing two concrete/asphalt crusher, concrete pulverizers to process the concrete and pull out the steel, a grinder for trees & green waste.
- Our team from Project Managers, Dispatchers, Truck Drivers, Supervisors, Operators, Laborers & Management understand the importance of creating a proper recycling report and their roles have been reviewed and individuals have been trained to play their part so American Wrecking Inc can submit a proper recycling report.

We are attaching an article that highlights our concrete/asphalt recycling capabilities and an example of a typical recycling report we've submitted to other agencies.

**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Arrow Services, Inc

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and Arrow Services, Inc. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

2.58.1 ☐ Commercial Edible Food Generator

2.58.2 ☐ Edible Food

2.58.3 ☐ Food Recovery

2.58.4 ☐ Food Recovery Organization

2.58.5 ☐ Food Recover Service

2.58.6 ☐ Large Event

2.58.7 ☐ Large Venue

2.58.8 ☐ Organic Waste

2.58.9 ☐ Tier One Commercial Edible Food Generator

2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1□ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2□ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3□ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4□ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5□ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6□ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 a report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2024 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□ any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□ any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□ any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Arrow Disposal Services, Inc.
Office Manager
14245 Proctor Ave
La Puente, CA 91746

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:
Jeff Melching
E04AA49F95474A7...
City Attorney

Date: 9/4/2024

Signed by:
Oliver Chi
7809AA719A2B4C7...
City Manager

ATTEST:

Date: 9/4/2024

DocuSigned by:
Carl Pate
0FCA091F02E547D...
City Clerk

Date: 8/29/2024

Franchisee Arrow Disposal Services, Inc.

By: [Signature]

Title: V.P. Sales & Marketing

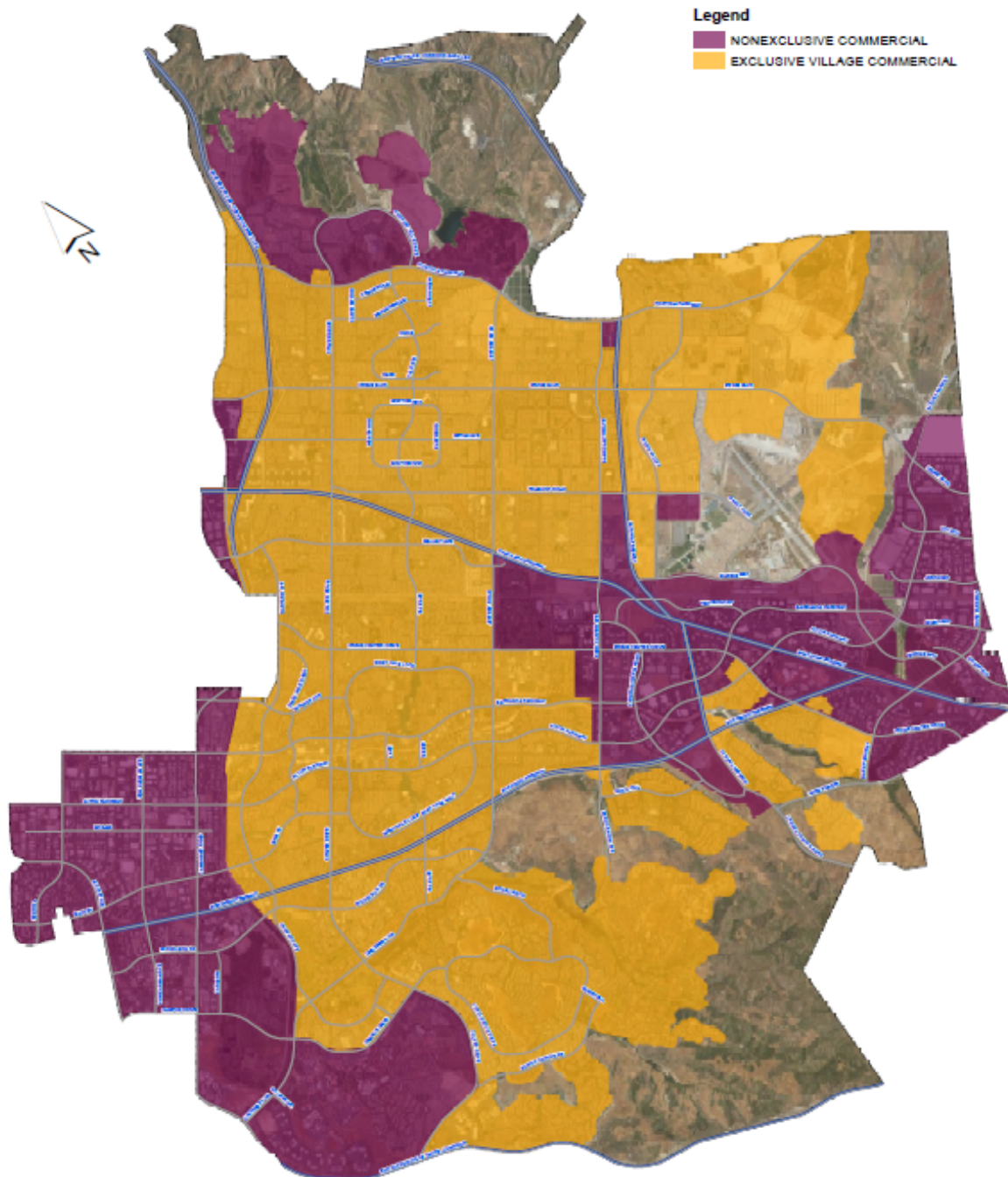
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Waste Hauling Services**WORKERS' COMPENSATION DECLARATION**


I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	08/29/24
Contracting Firm:	Arrow Disposal Services
Signature:	
Title:	VP Sales & Marketing
Address:	14245 Proctor Ave., La Puente, CA 91746



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/29/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER TMJ INSURANCE AGENCY 2001 W Magnolia Blvd Ste C BURBANK, CA 91506 0h02333	CONTACT NAME: James Safarian PHONE (A/C, No, Ext): (818)846-5550 FAX (A/C, No): (818)846-5551 E-MAIL ADDRESS: james@tmjinsurance.com														
INSURED Arrow Disposal Services, Inc. dba Arrow Services, Inc. 14245 Proctor Ave. La Puente, CA 91746	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A : State Compensation Insurance Fund</td> <td style="text-align: center;">35076</td> </tr> <tr><td>INSURER B :</td><td></td></tr> <tr><td>INSURER C :</td><td></td></tr> <tr><td>INSURER D :</td><td></td></tr> <tr><td>INSURER E :</td><td></td></tr> <tr><td>INSURER F :</td><td></td></tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : State Compensation Insurance Fund	35076	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$	
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	Y	9111215	9/15/2023	9/15/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

waiver of subrogation applies to policy on blanket basis.
30 day cancellation notice.

CERTIFICATE HOLDER**CANCELLATION**

City of Irvine
 Attn: City Manager
 Once Civic Center Plaza
 Irvine, CA 92623

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2014 ACORD CORPORATION. All rights reserved.



ARRODIS-01

CERNO1

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/29/2024

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PRODUCER License # 0L48969 C3 Risk & Insurance Services 404 Camino Del Rio S. STE 410 San Diego, CA 92108	CONTACT NAME: Norma Cervantes PHONE (A/C, No, Ext): (619) 233-8000 FAX (A/C, No): (619) 864-7106 E-MAIL ADDRESS: Proofs@c3insurance.com														
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	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below						<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>PER STATUTE</td> <td>OTH-ER</td> </tr> <tr><td>E.L. EACH ACCIDENT</td><td style="text-align: right;">\$</td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td style="text-align: right;">\$</td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td style="text-align: right;">\$</td></tr> </table>	PER STATUTE	OTH-ER	E.L. EACH ACCIDENT	\$	E.L. DISEASE - EA EMPLOYEE	\$	E.L. DISEASE - POLICY LIMIT	\$						
PER STATUTE	OTH-ER																				
E.L. EACH ACCIDENT	\$																				
E.L. DISEASE - EA EMPLOYEE	\$																				
E.L. DISEASE - POLICY LIMIT	\$																				
A	Pollution			ECP204142210	10/1/2023	10/1/2024	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Pollution</td><td style="text-align: right;">\$ 1,000,000</td></tr> </table>	Pollution	\$ 1,000,000												
Pollution	\$ 1,000,000																				
C	Excess Liability			EXO4286762	11/1/2023	10/1/2024	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Excess Liability</td><td style="text-align: right;">\$ 4,000,000</td></tr> </table>	Excess Liability	\$ 4,000,000												
Excess Liability	\$ 4,000,000																				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Contract Services Description: Waste Hauling Services

City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") are included as/where required by written contract as respects to General Liability and Pollution Liability per form ECP10040816, ECP12480121, ECP12470121, Auto Liability per form BENVCA060917. Blanket Waiver of subrogation applies but limited to the operations of the Insured under said contract, and always subject to all the policy terms, conditions and exclusions per endorsements ECP12600121 and CA04441013 attached. General Liability and Auto Liability Primary and Non-contributory wording per forms ECP12480121, ECP12470121 and CA04491116. Per Project endorsement applies per form ECP10211006. Commercial Excess GL Follow Form. SEE ATTACHED ACORD 101

CERTIFICATE HOLDER**CANCELLATION**

City of Irvine Attn: City Manager One Civic Center Plaza Irvine, CA 92623	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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**ADDITIONAL REMARKS SCHEDULE**

Page 1 of 1

AGENCY C3 Risk & Insurance Services		License # 0L48969	NAMED INSURED Arrow Disposal Services, Inc. PO Box 2917 La Puente, CA 91746
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance**Description of Operations/Locations/Vehicles:**

Notice of cancelation General Liability and Pollution Liability per form ECP12341021 and Auto Liability BENVCA13(01 23).

Symbol 1 "Any Auto"

This certificate cancels & supersedes any certificate previously issued.

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

ADDITIONAL INSURED – BLANKET

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

In consideration of the premium charged and notwithstanding anything contained in this policy to the contrary, it is hereby agreed and understood that this endorsement shall apply only to the Coverage Part(s) corresponding with the box or boxes marked below.

☒ **COVERAGES PARTS A AND B – GENERAL LIABILITY**

☒ **COVERAGE D – CONTRACTORS POLLUTION LIABILITY**

SECTION III – WHO IS AN INSURED is amended to include as an insured, with respect to Coverage **A**, **B** and **D**, any person(s) or organization(s) when you and such person(s) or organization(s) have agreed in a written contract or written agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such written contract or written agreement must be in effect prior to the performance of **your work** which is the subject of such written contract or written agreement.

Such additional insured status applies only:

1. Under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY** for claims or **suits** resulting from:
 - a. **Your work** performed for such person(s) or organization(s) in the performance of your ongoing operations for the additional insured; or
 - b. **Your work** performed for such person(s) or organizations(s) and included in the **products-completed operations hazard**.
2. Under **COVERAGE D CONTRACTORS POLLUTION LIABILITY** for claims or **suits** arising out of **pollution conditions** that are the result of:
 - a. **Your work** performed for such person(s) or organization(s) in the performance of your ongoing operations for the additional insured; or
 - b. **Your work** performed for such person(s) or organizations(s) and included in the **products-completed operations hazard**.

With respect to damages caused by **your work**, as described above, the coverage provided hereunder shall be primary and not contributing with any other insurance available to those person(s) or organization(s) with which you have so agreed in a written contract or written agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT

SCHEDULE

Designated Construction Projects:

"When required by written contract."

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by **occurrences** under **SECTION I – COVERAGE A** which can be attributed only to ongoing operations as shown in the schedule above:
1. A separate Designated Construction Project Limit applies to each designated construction project and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations page.
 2. Except for damages because of **bodily injury** or **property damage** included in the **products-completed operations hazard**, the Designated Construction Project Limit is the most we will pay for the sum of all damages under **SECTION I – COVERAGE A** regardless of the number of:
 - a. Insureds;
 - b. Claims made or **suits** brought; or
 - c. Persons or organizations making claims or bringing **suits**.
 3. Any payments made under **SECTION I – COVERAGE A** for damages shall reduce the Designated Construction Project Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations page nor shall they reduce any other Designated Construction Project Limit, except as affected by the Designated Construction Project Aggregate Limit described below.
 4. The limits shown in the Declarations page for Each Occurrence and Damage to Premises Rented to you continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project Limit.
 5.
 - a. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under the Designated Construction Project Limit, described in 1. and 2. above.
 - b. Regardless of the number of construction projects or designated construction projects covered under this policy, the most we will pay as the Designated Construction Project General Aggregate is \$5,000,000.
- B.** For all sums which the insured becomes legally obligated to pay as damages caused by **occurrences** under **SECTION I – COVERAGE A** which cannot be attributed only to ongoing operations as shown in the schedule above:
1. Any payments made under **SECTION I – COVERAGE A** for damages shall reduce the amount available under the General Aggregate Limit or the Products Completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.

- C. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for damages because of **bodily injury** or **property damage** included in the **products-completed operations hazard** will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D. If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E. The provisions of **SECTION IV – LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO DESIGNATED PERSON OR ORGANIZATION

Policy Number	Policy Effective Date	Policy Expiration Date	Endorsement Effective Date
ECP204142210	10/01/2023	10/01/2024	10/01/2023

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

The following is added to **SECTION VII – CONDITIONS 2. Cancellation:**

SCHEDULE

Number of Days Advance Notice Of Cancellation:	Thirty (30) Days
Name and Address of Designated Person(s) or Organization(s):	Per list on file with carrier
Additional Premium:	\$0

In consideration of the payment of an additional premium, and notwithstanding anything contained in the policy to the contrary, it is understood and agreed that if we cancel this policy on or before the expiration date set forth in the Declarations, we will mail or deliver to the first **Named Insured** at the last known address, and the person(s) or organization(s) at the address designated in the **SCHEDULE** above, written notice of cancellation not less than the number of days shown in the **SCHEDULE** before the effective date of cancellation. Proof of mailing of notice shall be sufficient proof of notice. The effective date and hour of cancellation stated in the notice shall be the end of the **policy period**.

This endorsement shall not apply if:

- 1. We cancel due to non-payment of premium, or
- 2. The policy is non-renewed for any reason.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS
SCHEDULED PERSON OR ORGANIZATION – ONGOING OPERATIONS – COVERAGE A, B,
D.1 & D.4**

Policy Number	Policy Effective Date	Policy Expiration Date	Endorsement Effective Date
ECP204142210	10/01/2023	10/01/2024	10/01/2023

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
As required by written contract	Where required by written contract

- I. SECTION III – WHO IS AN INSURED** is amended to include as an additional **insured**, the person(s) or organization(s) shown in the **SCHEDULE**, with whom you have agreed under a written contract or written agreement, in effect during this **policy period**, that such person(s) or organization(s) be added as an additional **insured** on this policy. Such contract or agreement must be executed and in effect prior to the performance of **your work** which is the subject of such contract or agreement.

The insurance provided to the additional **insured** person(s) or organization(s) applies only with respect to liability for **bodily injury** or **property damage** covered under **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE, Coverage D.1 – Contractors Pollution Legal Liability** and **Coverage D.4 – Microbial Substance Contractors Pollution Liability**, or personal injury or advertising injury covered under **SECTION I – COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY** directly caused by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional **insured(s)** at the location(s) designated above.

However:

1. The insurance afforded to such additional **insured** only applies to the extent permitted by law; and
2. We will not extend any insurance coverage to any additional **insured** that is not provided to you in this policy; and
3. The insurance afforded to such additional **insured** will not be broader than that which you are required by the contract or agreement to provide for such additional **insured**.

- II.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to **bodily injury** or **property damage** occurring after:

- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional **insured(s)** at the location of the **covered operations** has been completed; or
- b. That portion of **your work** out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- III.** With respect to the insurance afforded to these additional insureds, the following is added to **SECTION V – LIMITS OF INSURANCE**:

The most we will pay on behalf of the additional **insured** is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

IV. With respect to the insurance afforded to these additional **insureds, the following is added to **SECTION VI – REPORTING, DEFENSE, SETTLEMENT & COOPERATION**:**

1. Duties -- Additional Insured

An additional **insured** must see to it that:

- a. We are notified in writing as soon as practicable of an **occurrence** or offense which may result in a **claim** or **suit**;
- b. We receive written notice of a **claim** or **suit** as soon as practicable; and
- c. A request for defense and indemnity of the **claim** or **suit** will promptly be brought against any policy issued by another insurer under which the additional **insured** may be an insured in any capacity. This provision does not apply to insurance on which the additional **insured** is a **Named Insured**, if the contract or agreement requires that this coverage be primary and noncontributory.

V. SECTION VII – CONDITION 10. – Other Insurance is amended by the addition of the following which supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to the additional **insured** person(s) or organization(s) shown in the **SCHEDULE** of this endorsement provided that:

1. The additional **insured** person(s) or organization(s) is a **Named Insured** under such other insurance; and
2. You have agreed in writing in a contract or agreement, in effect during this **policy period**, that this insurance would be primary and would not seek contribution from any other insurance available to the additional **insured** person(s) or organization(s). Such contract or agreement must be executed and in effect prior to the performance of **your work** which is the subject of such contract or agreement.

However, this provision does not apply if the other insurance available to the person(s) or organization(s) included as an additional **insured** is Owners and Contractors Protective Liability, Railroad Protective Liability, or similar project-specific, primary insurance.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED -- OWNERS, LESSEES OR CONTRACTORS
AUTOMATIC STATUS – COMPLETED OPERATIONS – COVERAGE A, D.1 & D.4**

Policy Number	Policy Effective Date	Policy Expiration Date	Endorsement Effective Date
ECP204142210	10/01/2023	10/01/2024	10/01/2023

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

I. SECTION III – WHO IS AN INSURED is amended to include as an additional **insured**:

- Any person or organization for whom you have performed operations when you and such person or organization have agreed in writing in a contract or agreement, in effect during this **policy period**, that such person or organization be added as an additional **insured** on this policy; and
- Any other person or organization you are explicitly required to add as an additional **insured** under the contract or agreement described in Paragraph 1. above.

Such contract or agreement must be executed and in effect prior to the performance of **your work** included in the **products-completed operations hazard** which is the subject of such contract or agreement.

Such person(s) or organization(s) is an additional **insured** only with respect to liability for **bodily injury** or **property damage** under **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Coverage D.1 – Contractors Pollution Legal Liability** and **Coverage D.4 – Microbial Substance Contractors Pollution Liability**, directly caused by **your work** performed for the additional **insured** described in Paragraph 1. or 2. above, and included in the **products-completed operations hazard**.

However, the insurance afforded to such additional **insured** described above:

- Only applies to the extent permitted by law; and
- Will not be broader than that which you are required by the contract or agreement to provide for such additional **insured**; and
- Will not extend beyond that which is provided to you in this policy.

II. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- Bodily injury** or **property damage** arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the **claims** against any **insured** allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **insured**, if the **occurrence** which caused the **bodily injury** or **property damage** involved the rendering of, or the failure to render any professional architectural, engineering or surveying services.

III. With respect to the insurance afforded to these additional insureds, the following is added to SECTION V – LIMITS OF INSURANCE:

The most we will pay on behalf of the additional **insured** is the amount of insurance:

- Required by the contract or agreement described in Paragraph I.1.; or
 - Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

IV. With respect to the insurance afforded to these additional insureds, the following is added to SECTION VI –

REPORTING, DEFENSE, SETTLEMENT & COOPERATION:

1. Duties -- Additional Insured

An additional **insured** must see to it that:

- a. We are notified in writing as soon as practicable of an **occurrence** which may result in a **claim** or **suit**;
- b. We receive written notice of a **claim** or **suit** as soon as practicable; and
- c. A request for defense and indemnity of the **claim** or **suit** will promptly be brought against any policy issued by another insurer under which the additional **insured** may be an insured in any capacity. This provision does not apply to insurance on which the additional **insured** is a **Named Insured**, if the contract or agreement requires that this coverage be primary and noncontributory.

- V. **SECTION VII – CONDITION 10. – Other Insurance** is amended by the addition of the following which supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to a person(s) or organization(s) included as an additional **insured** under this endorsement provided that:

1. The additional **insured** person(s) or organization(s) is a **Named Insured** under such other insurance; and
2. You have agreed in writing in a contract or agreement, in effect during this **policy period**, that this insurance would be primary and would not seek contribution from any other insurance available to the additional **insured** person(s) or organization(s). Such contract or agreement must be executed and in effect prior to the performance of **your work** included in the **products-completed operations hazard** which is the subject of such contract or agreement.

However, this provision does not apply if the other insurance available to the person(s) or organization(s) included as an additional **insured** is Owners and Contractors Protective Liability, Railroad Protective Liability, or similar project-specific, primary insurance.

- VI. This endorsement does not apply to an additional **insured** which has been added to this policy by an endorsement showing the additional **insured** in a **SCHEDULE** of additional **insureds**, and which endorsement applies to that designated additional **insured**.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF SUBROGATION
(TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US)
AUTOMATIC STATUS – COVERAGE A, B & D

Policy Number	Policy Effective Date	Policy Expiration Date	Endorsement Effective Date
ECP204142210	10/01/2023	10/01/2024	10/01/2023

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

- I. The following is added to Paragraph 17. **Subrogation** of **SECTION VII – CONDITIONS**:
- We waive any right of recovery against any person(s) or organization(s) because of payments we make under **COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY**, and **COVERAGE D – CONTRACTORS POLLUTION LIABILITY** under this policy.
- Such waiver by us applies only if:
1. The **insured** has agreed in writing in a contract or agreement with such person(s) or organization(s) to waive its right of recovery; and
 2. The **insured** has waived its right of recovery against such person(s) or organization(s) prior to loss.
- This waiver does not apply in any jurisdiction where such waiver is held to be illegal or against public policy or in any situation where the person(s) or organization(s) against whom subrogation is to be waived is found to be solely negligent.
- This endorsement does not apply to any person(s) or organization(s) designated in a **SCHEDULE** of person(s) or organization(s) against whom rights of recovery have been waived.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

Policy No. BAP204142110 issued to ARROW DISPOSAL SERVICES, INC.
by Key Risk Insurance Company

COMMERCIAL AUTO
CA 04 49 11 16

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

B. The following is added to the **Other Insurance** Condition in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

POLICY NUMBER: BAP204142110

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

NOTICE TO OTHERS OF CANCELLATION, NONRENEWAL OR MATERIAL CHANGE

Business Auto Policy

If we cancel, non-renew or make a **material change** to the policy, we will provide written notice of same to the person(s) or organization(s) listed in the SCHEDULE below.

The Notice will provide the effective date/hour of the cancelation/non-renewal/material change, and will be sent by Certified Mail – Return Receipt Requested, in accordance with the SCHEDULE below. Proof of mailing will be sufficient proof of notice.

For purposes of this endorsement only, “**material change**” means a change to:

- Policy term;
- Removal of a Coverage Section;
- Reduction in any of the Limits of Insurance specified in ITEM 2. Schedule of Coverage and Covered Autos on the Declarations page, or a reduction in any of the Limits of Insurance as modified by endorsement, where said reduction is not the result of a reserve or payment of claim(s) or claim expenses; or
- Removal of an insured specifically identified by name in the policy.

SCHEDULE	
Name and Address of Other Person(s) or Organization(s): Where required by Written Contract	Number of Days' Prior Notice: 30

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

POLICY NUMBER: BAP204142110

BENV CA 06 09 17

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

BUSINESS AUTO – ADDITIONAL INSURED WHEN REQUIRED BY CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section II - Liability Coverage A. - Coverage, 1. Who is an Insured, is amended to add:

- d. Any person or organization to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into, excluding contracts or agreements for professional services, which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you. However, the insurance provided will not exceed the lesser of:
 - 1. The coverage and/or limits of this policy; or
 - 2. The coverage and/or limits required by said contract or agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

POLICY NUMBER: BAP204142110

COMMERCIAL AUTO
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Arrow Disposal Services, Inc. dba Arrow Services Endorsement Effective Date: 10/01/2023

SCHEDULE

Name(s) Of Person(s) Or Organization(s): Any person or organization where required by written contract
Any Principal wherein such waiver has been included before loss as part of a contractual undertaking by the Named Insured
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
Sunset Environmental	Construction Debris	16122 Construction Cir W, Irvine, CA 92606	949-654-1562	Littenberg, Daryl <dlittenb@wm.com>
Republic Services	Construction debris and Mixed inerts , concrete	2740 E Coronado St, Anaheim, CA 92806	(714) 238-3301	Republicservices.com
California Waste Services	Construcion Debris and mixed inert concrete and asphalt	621 West 152nd St Gardena CA	800-839-5550	sophie@californiawasteservices.com
Ace Diversion	Construcion Debris	1530 Date Street Montebello CA 90640	323-718-0959	Click here to enter text.
Olinda Landfill	Mixed Inert	Brea CA	714-993-0372	Click here to enter text.
Madison Materials	Construction Debris	Click here to enter text.	714-664-0159	Click here to enter text.

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Exhibit E**Implementation, Outreach and Education Plan****Construction and Demolition Recycling
SB 1383 Compliance Guide – City of Irvine**

In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

CalStar Services, Inc.

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and CalStar Services, Inc. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment.

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1□ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2□ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3□ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4□ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5□ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6□ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 The number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 A report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 The number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: CalStar Services, Inc.
7550 Wheatland Ave
Sun Valley, CA 91352

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

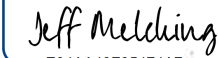
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.


CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

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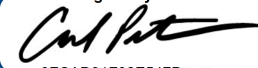
City Attorney

Date: 9/3/2024

Signed by:

7809AA719A2B4G7...
By: _____
City Manager

ATTEST:

Date: 9/8/2024

DocuSigned by:

0FCAD91F02E547D...
By: _____
City Clerk

Date: 8/27/2024

Franchisee CalStar Services, Inc.
By: 

Title: OWNER

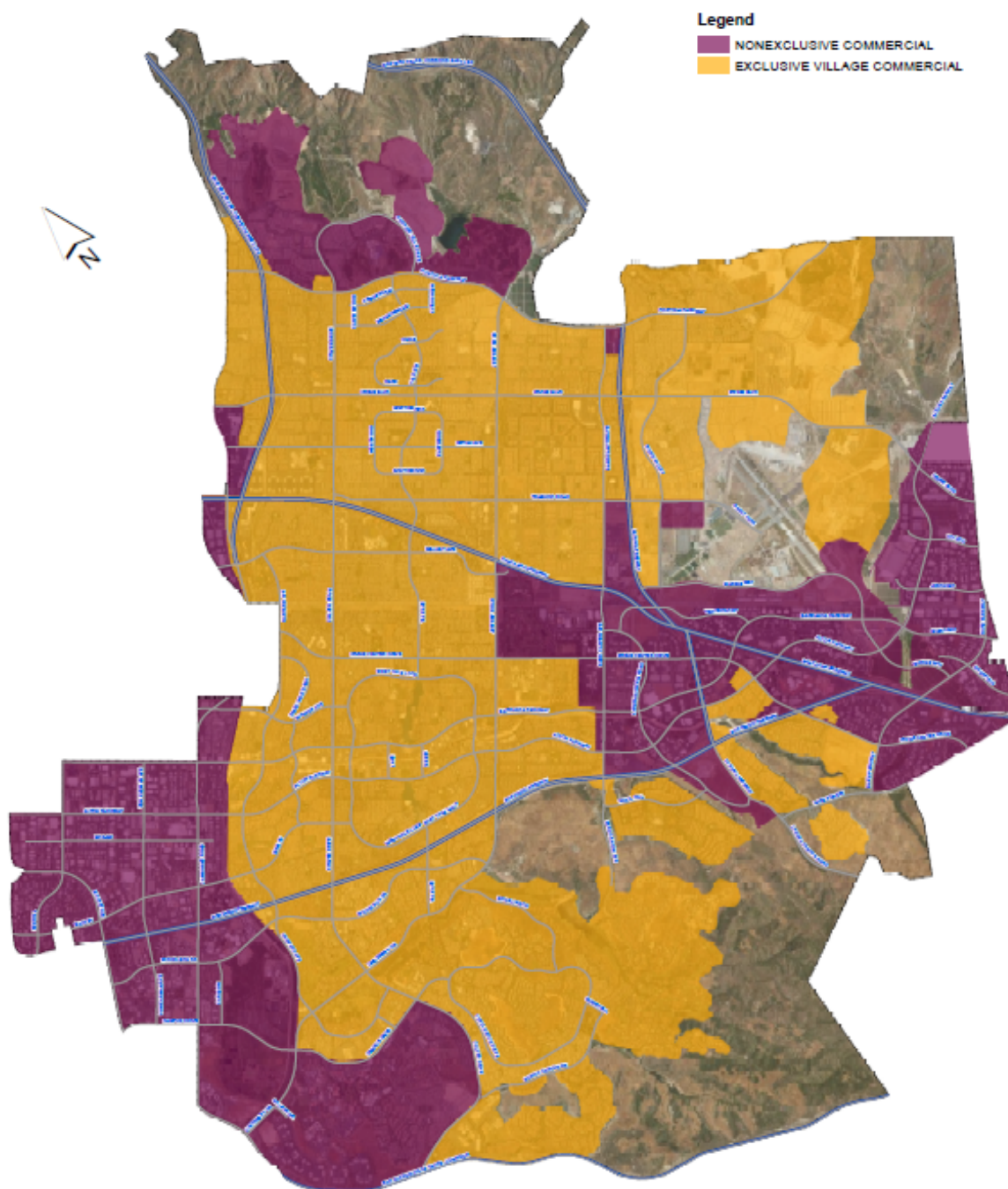
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Haulers**WORKERS' COMPENSATION DECLARATION**

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/27/2024
Contracting Firm:	CalStar Services, Inc
Signature:	
Title:	OWNER
Address:	7550 Wheatland Ave. Sun Valley, CA 91352



CALSSER-01

TWANG

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/18/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0C36861 San Marcos - Escondido 277 Rancheros Dr, Ste 300 San Marcos, CA 92069	CONTACT NAME: Sandy V Rodriguez	
	PHONE (A/C, No, Ext): (760) 304-7120 FAX (A/C, No): (760) 304-7748	
	E-MAIL ADDRESS: SRodriguez@alliant.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Great Divide Insurance Company	25224
	INSURER B : Key Risk Insurance Company	10885
	INSURER C : StarStone Specialty Insurance Company	44776
	INSURER D :	
	INSURER E :	
	INSURER F :	

INSURED

Calstar Services, Inc./Daltas Wheatland LLC
7550 Wheatland Avenue
Sun Valley, CA 91325

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			GLP2035487-13	8/3/2024	8/3/2025	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BAP2035486-13	8/3/2024	8/3/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			TBD	10/18/2024	8/3/2025	EACH OCCURRENCE \$ 2,000,000
							AGGREGATE \$ 2,000,000
							\$
							PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y / N N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92606

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



ENDORSEMENT AGREEMENT
EXECUTIVE OFFICERS
MINIMUM/MAXIMUM LIMITS

REP 01
9255202-24
RENEWAL
NA
9-84-00-19
PAGE 1 OF 1

HOME OFFICE
SAN FRANCISCO

EFFECTIVE JUNE 5, 2024 AT 12.01 A.M.

ALL EFFECTIVE DATES ARE
AT 12:01 AM PACIFIC
STANDARD TIME OR THE
TIME INDICATED AT
PACIFIC STANDARD TIME

CALSTAR SERVICES INC
7550 WHEATLAND AVE
SUN VALLEY, CA 91352

ANY CONTRADICTION BETWEEN THE POLICY AND THIS ENDORSEMENT
WILL BE CONTROLLED BY THIS ENDORSEMENT.

IT IS AGREED THAT UNLESS OTHERWISE EXCLUDED BY ENDORSEMENT
THE ACTUAL REMUNERATION EARNED BY EACH EXECUTIVE OFFICER
DURING THE POLICY PERIOD SHALL BE USED AS THE BASIS OF
PREMIUM, SUBJECT TO

THE MINIMUM AMOUNT OF \$ 59,800 PER ANNUM

AND THE MAXIMUM AMOUNT OF \$ 154,700 PER ANNUM

AS SPECIFIED IN THE CALIFORNIA WORKERS' COMPENSATION
UNIFORM STATISTICAL REPORTING PLAN, FOR WORKERS'
COMPENSATION INSURANCE IN EFFECT DURING THE POLICY PERIOD.

NOTHING IN THIS ENDORSEMENT SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND
ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS POLICY
OTHER THAN AS ABOVE STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE
HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR
LIMITATIONS IN THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO: JUNE 6, 2024

3015


AUTHORIZED REPRESENTATIVE


PRESIDENT AND CEO



HOME OFFICE	SAN FRANCISCO	ANNUAL RATING ENDORSEMENT
IT IS AGREED THAT THE CLASSIFICATIONS AND RATES PER \$100 OF REMUNERATION APPEARING IN THE CONTINUOUS POLICY ISSUED TO THIS EMPLOYER ARE AMENDED AS SHOWN BELOW.		

HERE ARE YOUR NEW RATES FOR THE PERIOD INDICATED. IF YOUR NAME OR ADDRESS SHOULD BE CORRECTED OR IF INSURANCE IS NOT NEEDED FOR NEXT YEAR, PLEASE TELL US.

IMPORTANT THIS IS NOT A BILL
SEND NO MONEY UNLESS STATEMENT IS ENCLOSED

THE RATING PERIOD BEGINS AND ENDS AT 12:01AM
PACIFIC STANDARD TIME

CONTINUOUS POLICY 9255202-24

RATING PERIOD 6-05-24 TO 6-05-25

CALSTAR SERVICES INC
7550 WHEATLAND AVE
SUN VALLEY, CALIF 91352

DEPOSIT PREMIUM	\$0.00
MINIMUM PREMIUM	\$1,565.00
PREMIUM ADJUSTMENT PERIOD	MONTHLY
REP 01	R NA

NAME OF EMPLOYER- CALSTAR SERVICES INC
(A CORPORATION)

CODE NO. PRINCIPAL WORK AND RATES EFFECTIVE FROM 06-05-24 TO 06-05-25

		PREMIUM BASIS	BASE RATE	INTERIM BILLING RATE*
9403-1	GARBAGE OR REFUSE COLLECTING	99604	20.38	30.86
8810-1	CLERICAL OFFICE EMPLOYEES--N.O.C.	151653	.67	1.01
8871-1	CLERICAL TELECOMMUTER EMPLOYEES--N.O.C.	0	.54	.82

*****BUREAU NOTE INFORMATION*****

FEIN 352605159

TOTAL ESTIMATED ANNUAL PREMIUM \$32,272

POLICY NUMBER: GLP2035487-13

COMMERCIAL GENERAL LIABILITY
CG 20 26 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

THOSE ENTITIES WITH WHOM THE NAMED INSURED EXECUTES A WRITTEN CONTRACT

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
California Waste Services	Mixed C&D, Concrete, Inert materials, metal, plastic, Green waste	621 W. 152nd St Gardena, CA	800-839-5550	info@californiawasteservices.com
Downtown Diversion- WM	Mixed C&D, Concrete, Inert material, Metal, Cardboard, Green waste	2424 E. Olympic blvd Los Angeles, CA	877) 933-4837	askgreen@wm.com
ACE Diversion Inc.	Mixed C&D, Metal, plastic, Green waste	1530 Date Street Montebello, CA 90640	(323) 718-0959	haik@cwrservices.com
American Reclamation	Mixed C&D, Concrete, metal, plastic, Cardboard, Green waste	4560 Doran St, Los Angeles, CA 90039	888) 999-9330	info@americanreclamation.com
Crown Disposal Co	Mixed C&D, metal, plastic, Cardboard, Green	9189 De Garmo Ave, Sun Valley, CA 91352	(818) 899-5265	info@athens-env.com
Active Recycling Co, Inc.	Mixed C&D, metal, plastic, Cardboard, Green	2000 W Slauson Ave, Los Angeles, CA 90047	(323) 295-7774	info@ActiveLosAngeles.com

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)



Plastic Bottles & Tubs

Please empty; lids and labels accepted



Paper, Plastic & Aluminum Cups

Please empty and remove straws



Metal Cans

Remove aerosol tips



Glass Bottles & Jars

Please empty; all colors and lids accepted



Mixed Paper



Cartons

Please empty; remove caps and straws



Always Recycle:



**Plastic Bottles
& Containers**



**Food & Beverage
Cans**



Paper



**Flattened Cardboard
& Paperboard**



**Food & Beverage
Cartons**



**Glass Bottles
& Containers**

Do NOT include in your mixed recycling:



NO Food Waste
(Compost instead!)



**NO Plastic Bags
& Film**
(Find a recycling site at
plasticfilmrecycling.org)



**NO Foam Cups
& Containers**
(Check Earth911.org for options.)



NO Needles
Keep medical waste out of recycling.

WHO WE ARE

CalStar Services is a reputable, family-owned, and operated waste management company, delivering comprehensive services across Los Angeles and its neighboring cities. With over four decades of operational expertise, we take pride in offering unparalleled personal customer service.

Our range of services caters to diverse waste removal needs, be it for new construction projects or weekly collections. We are dedicated to customizing optimal solutions for you, ensuring the highest quality at the most competitive prices. Trust CalStar Services to meet all your waste management requirements with efficiency and excellence.

WHAT WE DO

We're right here in your community, catering to businesses, industries, construction, and homes. Whether you need dumpsters for various projects, a range of container sizes, compactors, tilt hoppers, flatbed services, or flying dumpsters for cranes, we've got you covered-all within your budget. Count on us for a dedicated point of contact to handle all your questions and concerns. We're committed to making your experience simple and reliable.

◆ **Locally Owned & Operated**

◆ **LEED Compliance and Recycling Services**

◆ **Safer, Cleaner, & More Efficient Job Sites.**



CalStar Services

WE ARE YOUR GO TO CONSTRUCTION WASTE HAULER IN THE GREATER LOS ANGELES AREA AND BEYOND



About Us

CalStar Services is a family owned and operated, full service waste management company that offers superior service throughout Los Angeles and the surrounding cities. With over 40 years of operational experience, CalStar Services prides itself on providing the highest level of personal customer service that is incomparable to others.

We provide a variety of services to fulfill all your waste removal requirements. Whether it is a new construction or a weekly collection, we can arrange the best possible set-up for you while guaranteeing the lowest prices available.



CONSTRUCTION SERVICES

We provide comprehensive demolition debris removal with Roll-Off containers. We handle all non-hazardous demolition debris removal.



RESIDENTIAL SERVICES

Anything from cleaning out the garage, annual landscaping, or home remodel, Dumpsters are a perfect solution.

ROLL-OFF Containers

CalStar Services can provide comprehensive demolition debris removal with Roll-Off containers. We can handle all non-hazardous demolition debris removal.

Developers, builders, contractors require the right container so you can keep on track at the end of your phase without headaches. We'll work with you to select the right container and service frequency to manage your waste removal for your projects.

Our temporary container services include dumpster bins, tilt hoppers and roll-off containers in a variety of sizes to fit your waste collection needs. Perfect for commercial and industrial construction projects,

LEED Compliance and Recycling Services

Our commercial and construction services are designed to help our clients meet their recycling goals including LEED certification. Designed to reduce your operating costs and enhance your profitability, our services can also improve employee satisfaction and productivity. But from a broader perspective, we can help you protect and enhance our ecosystem, improve air and water quality, conserve natural resources and reduce solid waste.

Our Services

From start to finish, we will do our part in providing services scaled to meet your project needs along with our dedication to providing reliable and exceptional customer service. We are committed to helping you achieve your financial and sustainability goals through all phases of construction no matter the size of the project by developing solutions that will keep your job site running efficiently.

3 Yard Dumpster Container



Scheduled weekly pick up containers are designed for a temporary waste services. We offer containers ranging from one to six cubic yards.

10 Yard Roll-Off Container



Specifically designed for heavy materials like concrete, asphalt, brick, tile, dirt, and sand.

40 Yard Roll-Off Container



Great for large clean-up, spring / winter clean-up, remodel work or a new construction or demolition job.



Portable Toilet Rental

Fully serviced for your construction job site or special events. All of our units are cleaned and maintained by dedicated professionals.

- CONSTRUCTION PROJECTS
- FAMILY OWNED AND OPERATED
- WE TAILOR OUR SERVICE TO MEET YOUR NEEDS
- WE HAVE THE SERVICES YOU ARE LOOKING FOR!

**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

California Waste Services, LLC

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3 Actions for Damages.....46

19 ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS
AND LIMITATIONS46

20 GENERAL PROVISIONS47

20.1 Force Majeure47

20.2 Property Damage47

20.3 Pavement Damage47

20.4 Right of Entry47

20.5 City’s Authorized Agent47

20.6 Amendments48

20.7 Independent Contractor.....48

20.8 Law to Govern; Venue.....48

20.9 Joint Drafting48

20.10 Section Headings48

20.11 Successors and Assigns.....48

20.12 Waiver48

20.13 Notices49

20.14 Severability49

20.15 Exhibits Incorporated.....49

20.16 Attorneys’ Fees and Litigation Costs.....49

20.17 Corporate Resolution49

20.18 Integration49

20.19 Compliance with Law50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and California Waste Services (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 ☐ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 ☐ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 ☐ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 ☐ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 ☐ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 ☐ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~The~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~The~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 ☐ Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 ☐ Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2024 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) Assist City in responding to inquiries from CalRecycle;

(b) Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 ☐ Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 ☐ CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 ☐ Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□ any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□ any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□ any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ **Force Majeure.** Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ **Property Damage.** Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ **Pavement Damage.** Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ **Right of Entry.** Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ **City's Authorized Agent.** Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: California Waste Services, LLC
Attn: Compliance Manager
621 W. 152nd St
Gardena, CA 90247

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.


CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F95474A7...
City Attorney

Date: 9/3/2024

Signed by:

7809AA719A2B4C7...
City Manager

ATTEST:

Date: 9/3/2024

DocuSigned by:

0FCAD91F02E547D...
City Clerk

Date: 08/30/2024

Franchisee California Waste Services, LLC

By:  Eric Casper

Title: President

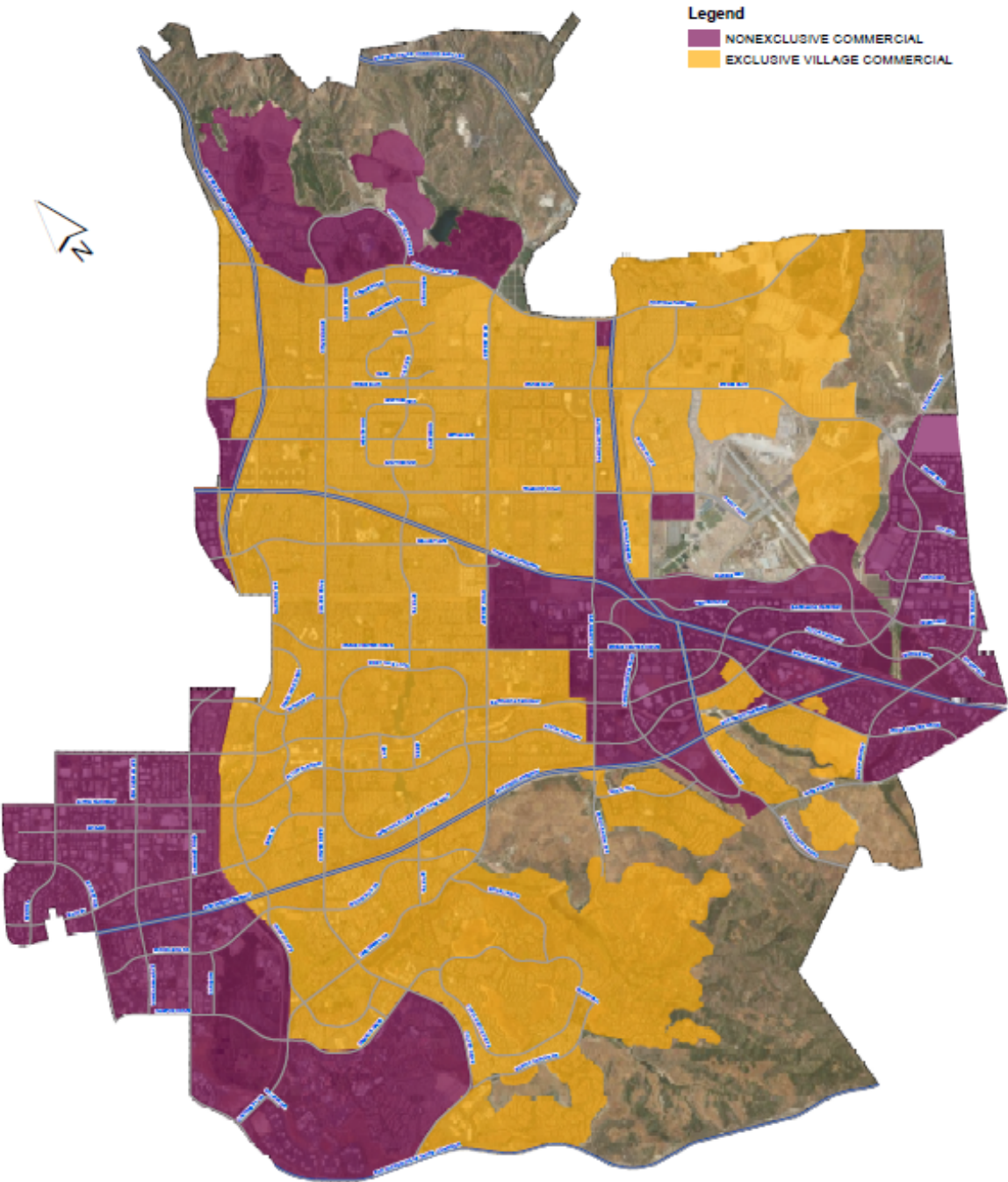
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C

Workers' Compensation Insurance Certification

Contract Services Description: On-Call Roll-Off Service C&D

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	08/30/2024
Contracting Firm:	California Waste Services, LLC
Signature:	 Eric Casper
Title:	President
Address:	621 W. 152nd St. Gardena, CA 90247



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/28/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER IMA, Inc. 3475 E. Foothill Blvd., Suite 100 Pasadena, CA 91107 www.boltonco.com 0H64724	CONTACT NAME: PHONE (A/C, No. Ext): (626) 799-7000 FAX (A/C, No): (626) 583-2117 E-MAIL ADDRESS: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Nautilus Insurance Company</td> <td style="text-align: center;">17370</td> </tr> <tr> <td>INSURER B: Key Risk Insurance Company</td> <td style="text-align: center;">10885</td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Nautilus Insurance Company	17370	INSURER B: Key Risk Insurance Company	10885	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															
INSURED California Waste Services, LLC 621 W. 152nd Street Gardena CA 90247															

COVERAGES**CERTIFICATE NUMBER:** 81634998**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	✓		ECP2044480-10	9/1/2024	9/1/2025	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$25,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 Contractors Pollution \$1,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	✓		BAP2044482-10	9/1/2024	9/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$NIL			FFX2044481-10	9/1/2024	9/1/2025	EACH OCCURRENCE \$9,000,000 AGGREGATE \$9,000,000 ProdHzd/Cmpltd \$9,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y / N <input checked="" type="checkbox"/> N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	Pollution			FEIEIL2529901	9/1/2024	9/1/2027	\$5,000,000 Per Pollution Condition Limit \$5,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Job: Solid Waste Removal. GL & Auto Additional Insureds apply per ECP12460121 & BENVCA060917 attached, only if required by written contract/agreement. GL Primary & Non-Contributory Wording applies per ECP12460121 attached. Additional Insured(s): City of Irvine. City of Irvine, its employees, agents, contractors, officials, volunteers, and officers

CERTIFICATE HOLDER

City of Irvine Public Works Dept
 ATTN: Mike Byrne
 P.O. Box 19575
 Irvine CA 92623

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

John Guthrie

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ACORD 25 (2016/03)

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BAP2044482-10

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

BUSINESS AUTO – ADDITIONAL INSURED
WHEN REQUIRED BY CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section II - Liability Coverage A. - Coverage, 1. Who is an Insured, is amended to add:





- d. Any person or organization to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into, excluding contracts or agreements for professional services, which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you. However, the insurance provided will not exceed the lesser of:
1. The coverage and/or limits of this policy; or

2. The coverage and/or limits required by said contract or agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED -- OWNERS, LESSEES OR CONTRACTORS
AUTOMATIC STATUS – ONGOING OPERATIONS – COVERAGE A, B, D.1 & D.4

Policy Number	Policy Effective Date	Policy Expiration Date	Endorsement Effective Date
ECP2044480-10 	9/1/2024 	9/1/2025 	9/1/2024 

ENVIRONMENTAL COMBINED POLICY

I. SECTION III – WHO IS AN INSURED

1. ☐ **insured** ☐ **policy period** ☐ **insured** ☐
2. ☐ **insured** ☐ **1.** ☐ **your work** ☐ **bodily injury** ☐ **property damage** ☐ **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Coverage D.1 – Contractors Pollution Legal Liability** ☐ **Coverage D.4 – Microbial Substance Contractors Pollution Liability,** ☐ **SECTION I - COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY** ☐
- a. ☐ **insured** ☐ **1. or 2.** ☐
- b. ☐ **insured** ☐ **insured** ☐
- c. ☐ **insured** ☐ **insured** ☐
- A person's or organization's status as an additional **insured** ☐ **1.** ☐

[illegible]

- a. Bodily injury or property damage or personal and advertising injury or
- (1) or
- (2) or
- claims insured or
- insured occurrence or
- bodily injury or property damage or personal and advertising injury or
- b. Bodily injury or property damage or
- (1) or
- covered operations or insured

(2) **your work** shall be deemed to be performed by the Named Insured or any subcontractor, agent, employee, independent contractor, or other person acting on behalf of the Named Insured.

III. **SECTION V – LIMITS OF INSURANCE**

The limits of insurance shall be as stated in the **insured** schedule.

1. **Retained Limit** shall be \$1,000,000.
2. **Aggregate Limit** shall be \$1,000,000.

IV. **SECTION VI – REPORTING, DEFENSE, SETTLEMENT & COOPERATION**

1. **Duties -- Additional Insured**

- The Named Insured shall be deemed to be an additional insured under the policy.
- a. **Occurrence** shall be deemed to be a claim or suit.
 - b. **Claim or suit** shall be deemed to be a claim or suit.
 - c. **Named Insured** shall be deemed to be an additional insured under the policy.

V. **SECTION VII – CONDITION 10. – Other Insurance**

Primary And Noncontributory Insurance

- The Named Insured shall be deemed to be an additional insured under the policy.
1. **Named Insured** shall be deemed to be an additional insured under the policy.
 2. **Policy period** shall be deemed to be the period of time during which the Named Insured is performing **your work**.

VI. **SCHEDULE** shall be deemed to be the schedule of additional insureds.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

		CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 4/22/2024	
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.					
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).					
PRODUCER Edgewood Partners Ins. Center 10877 White Rock Rd. Suite 300 Lic#0B29370 Rancho Cordova CA 95670			CONTACT NAME: Cassidy Vaughn PHONE (A/C, No. Ext): FAX (A/C, No.): E-MAIL: certs@samuelhale.com ADDRESS:		
INSURED Samuel Hale LLC LCF California Waste Services, LLC 621 W 152nd St Gardena CA 90247-2732			INSURER(S) AFFORDING COVERAGE INSURER A: XL Insurance America, Inc. NAIC # 24554 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:		
COVERAGES CERTIFICATE NUMBER: 1245111544 REVISION NUMBER:					
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INBR	LTD	TYPE OF INSURANCE	ADDITIONAL SUBROGATION	POLICY NUMBER	LIMITS
		COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPIOP AGG \$ \$
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> OTHER:			COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
		UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED. RETENTION \$			EACH OCCURRENCE \$ AGGREGATE \$ \$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below	Y	RWD9435561	5/1/2024 5/1/2025 X PER STATUTE <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Blanket Waiver of Subrogation applies as required by written contract that you have agreed to prior to loss. See attached Blanket Waiver of Subrogation.					
CERTIFICATE HOLDER Evidence of Coverage Only			CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 		

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WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**WC 04 03 06****(Ed. 04-84)****WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT—CALIFORNIA**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be _____% of the California workers' compensation premium otherwise due on such remuneration.

Schedule**Person or Organization**

ANY PERSON OR ORGANIZATION WHERE
WAIVER OF OUR RIGHT TO RECOVER IS
PERMITTED BY LAW AND IS REQUIRED BY
WRITTEN CONTRACT PROVIDED SUCH
CONTRACT WAS EXECUTED PRIOR TO DATE OF LOSS.

Job Description

ALL JOBS UNDER CONTRACT

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 05/01/2024

Insured Samuel Hale, LLC

LCF California Waste Services, LLC

Policy No. RWD9435561

Insurance Company XL Insurance America, Inc.

Endorsement No.

Countersigned By _____

WC 04 03 06
(Ed. 04-84)

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Page 1 of 2

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
California Waste Services LLC	C&D	621 W. 152nd St., Gardena, CA 90247	(310) 538-5998	giovanni@californiawasteservices.com
CWS-DTLA	C&D	3720 Noakes St., Los Angeles, CA 90023	(310) 538-5998	giovanni@californiawasteservices.com
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

Implementation, Outreach and Education Plan

Construction and Demolition Recycling SB 1383 Compliance Guide – City of Irvine



In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

CalStar Services, Inc.

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and CalStar Services, Inc. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ **AB 341**. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ **AB 939**. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1□ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2□ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3□ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4□ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5□ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6□ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~The~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~The~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□ any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□ any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□ any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: CalStar Services, Inc.
7550 Wheatland Ave
Sun Valley, CA 91352

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

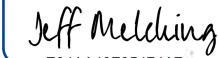
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.


CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F95474A7...

City Attorney


Date: 9/3/2024

Signed by:

7809AA719A2B4G7...

By: _____
City Manager

ATTEST:

Date: 9/8/2024

DocuSigned by:

0FCAD91F02E547D...

By: _____
City Clerk

Date: 8/27/2024

Franchisee CalStar Services, Inc.
By: 

Title: OWNER

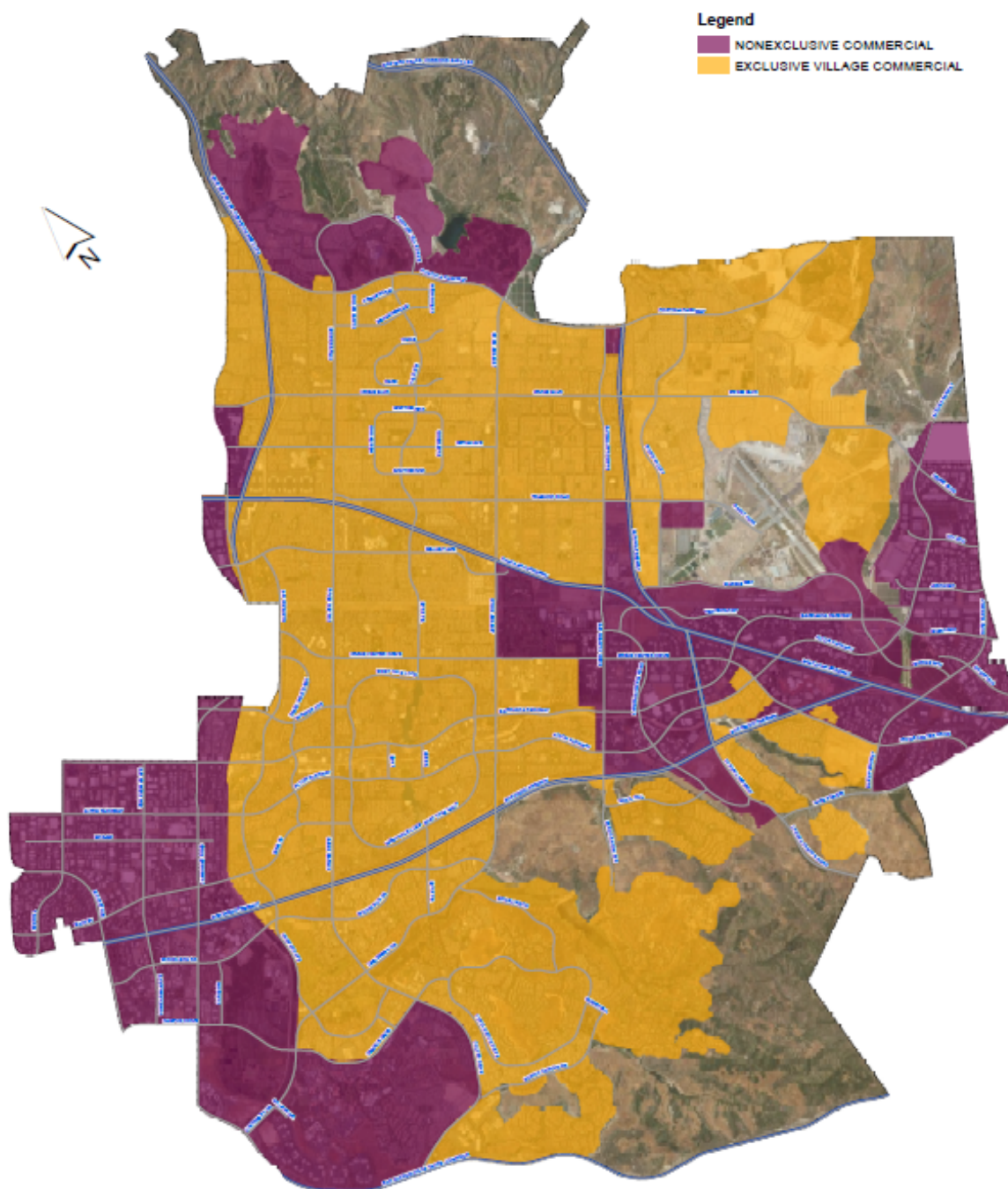
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Haulers**WORKERS' COMPENSATION DECLARATION**

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/27/2024
Contracting Firm:	CalStar Services, Inc
Signature:	
Title:	OWNER
Address:	7550 Wheatland Ave. Sun Valley, CA 91352



CALSSER-01

TWANG

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/18/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0C36861 San Marcos - Escondido 277 Rancheros Dr, Ste 300 San Marcos, CA 92069	CONTACT NAME: Sandy V Rodriguez	
	PHONE (A/C, No, Ext): (760) 304-7120	FAX (A/C, No): (760) 304-7748
	E-MAIL ADDRESS: SRodriguez@alliant.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED Calstar Services, Inc./Daltas Wheatland LLC 7550 Wheatland Avenue Sun Valley, CA 91325	INSURER A : Great Divide Insurance Company	25224
	INSURER B : Key Risk Insurance Company	10885
	INSURER C : StarStone Specialty Insurance Company	44776
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			GLP2035487-13	8/3/2024	8/3/2025	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BAP2035486-13	8/3/2024	8/3/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			TBD	10/18/2024	8/3/2025	EACH OCCURRENCE \$ 2,000,000
							AGGREGATE \$ 2,000,000
							\$
							PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y / N N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92606

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



ENDORSEMENT AGREEMENT
EXECUTIVE OFFICERS
MINIMUM/MAXIMUM LIMITS

REP 01
9255202-24
RENEWAL
NA
9-84-00-19
PAGE 1 OF 1

HOME OFFICE
SAN FRANCISCO

EFFECTIVE JUNE 5, 2024 AT 12.01 A.M.

ALL EFFECTIVE DATES ARE
AT 12:01 AM PACIFIC
STANDARD TIME OR THE
TIME INDICATED AT
PACIFIC STANDARD TIME

CALSTAR SERVICES INC
7550 WHEATLAND AVE
SUN VALLEY, CA 91352

ANY CONTRADICTION BETWEEN THE POLICY AND THIS ENDORSEMENT
WILL BE CONTROLLED BY THIS ENDORSEMENT.

IT IS AGREED THAT UNLESS OTHERWISE EXCLUDED BY ENDORSEMENT
THE ACTUAL REMUNERATION EARNED BY EACH EXECUTIVE OFFICER
DURING THE POLICY PERIOD SHALL BE USED AS THE BASIS OF
PREMIUM, SUBJECT TO

THE MINIMUM AMOUNT OF \$ 59,800 PER ANNUM

AND THE MAXIMUM AMOUNT OF \$ 154,700 PER ANNUM

AS SPECIFIED IN THE CALIFORNIA WORKERS' COMPENSATION
UNIFORM STATISTICAL REPORTING PLAN, FOR WORKERS'
COMPENSATION INSURANCE IN EFFECT DURING THE POLICY PERIOD.

NOTHING IN THIS ENDORSEMENT SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND
ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS POLICY
OTHER THAN AS ABOVE STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE
HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR
LIMITATIONS IN THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO: JUNE 6, 2024

3015


AUTHORIZED REPRESENTATIVE


PRESIDENT AND CEO



HOME OFFICE	SAN FRANCISCO	ANNUAL RATING ENDORSEMENT
IT IS AGREED THAT THE CLASSIFICATIONS AND RATES PER \$100 OF REMUNERATION APPEARING IN THE CONTINUOUS POLICY ISSUED TO THIS EMPLOYER ARE AMENDED AS SHOWN BELOW.		

HERE ARE YOUR NEW RATES FOR THE PERIOD INDICATED. IF YOUR NAME OR ADDRESS SHOULD BE CORRECTED OR IF INSURANCE IS NOT NEEDED FOR NEXT YEAR, PLEASE TELL US.

IMPORTANT THIS IS NOT A BILL
SEND NO MONEY UNLESS STATEMENT IS ENCLOSED

THE RATING PERIOD BEGINS AND ENDS AT 12:01AM
PACIFIC STANDARD TIME

CONTINUOUS POLICY 9255202-24

RATING PERIOD 6-05-24 TO 6-05-25

CALSTAR SERVICES INC
7550 WHEATLAND AVE
SUN VALLEY, CALIF 91352

DEPOSIT PREMIUM	\$0.00
MINIMUM PREMIUM	\$1,565.00
PREMIUM ADJUSTMENT PERIOD	MONTHLY
REP 01	R NA

NAME OF EMPLOYER- CALSTAR SERVICES INC
(A CORPORATION)

CODE NO. PRINCIPAL WORK AND RATES EFFECTIVE FROM 06-05-24 TO 06-05-25

		PREMIUM BASIS	BASE RATE	INTERIM BILLING RATE*
9403-1	GARBAGE OR REFUSE COLLECTING	99604	20.38	30.86
8810-1	CLERICAL OFFICE EMPLOYEES--N.O.C.	151653	.67	1.01
8871-1	CLERICAL TELECOMMUTER EMPLOYEES--N.O.C.	0	.54	.82

*****BUREAU NOTE INFORMATION*****

FEIN 352605159

TOTAL ESTIMATED ANNUAL PREMIUM \$32,272

POLICY NUMBER: GLP2035487-13

COMMERCIAL GENERAL LIABILITY
CG 20 26 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

THOSE ENTITIES WITH WHOM THE NAMED INSURED EXECUTES A WRITTEN CONTRACT

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
California Waste Services	Mixed C&D, Concrete, Inert materials, metal, plastic, Green waste	621 W. 152nd St Gardena, CA	800-839-5550	info@californiawasteservices.com
Downtown Diversion- WM	Mixed C&D, Concrete, Inert material, Metal, Cardboard, Green waste	2424 E. Olympic blvd Los Angeles, CA	877) 933-4837	askgreen@wm.com
ACE Diversion Inc.	Mixed C&D, Metal, plastic, Green waste	1530 Date Street Montebello, CA 90640	(323) 718-0959	haik@cwrservices.com
American Reclamation	Mixed C&D, Concrete, metal, plastic, Cardboard, Green waste	4560 Doran St, Los Angeles, CA 90039	888) 999-9330	info@americanreclamation.com
Crown Disposal Co	Mixed C&D, metal, plastic, Cardboard, Green	9189 De Garmo Ave, Sun Valley, CA 91352	(818) 899-5265	info@athens-env.com
Active Recycling Co, Inc.	Mixed C&D, metal, plastic, Cardboard, Green	2000 W Slauson Ave, Los Angeles, CA 90047	(323) 295-7774	info@ActiveLosAngeles.com

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)



Plastic Bottles & Tubs

Please empty; lids and labels accepted



Paper, Plastic & Aluminum Cups

Please empty and remove straws



Metal Cans

Remove aerosol tips



Glass Bottles & Jars

Please empty; all colors and lids accepted



Mixed Paper



Cartons

Please empty; remove caps and straws



Always Recycle:



**Plastic Bottles
& Containers**



**Food & Beverage
Cans**



Paper



**Flattened Cardboard
& Paperboard**



**Food & Beverage
Cartons**



**Glass Bottles
& Containers**

Do NOT include in your mixed recycling:



NO Food Waste
(Compost instead!)



**NO Plastic Bags
& Film**
(Find a recycling site at
plasticfilmrecycling.org)



**NO Foam Cups
& Containers**
(Check Earth911.org for options.)



NO Needles
Keep medical waste out of recycling.

WHO WE ARE

CalStar Services is a reputable, family-owned, and operated waste management company, delivering comprehensive services across Los Angeles and its neighboring cities. With over four decades of operational expertise, we take pride in offering unparalleled personal customer service.

Our range of services caters to diverse waste removal needs, be it for new construction projects or weekly collections. We are dedicated to customizing optimal solutions for you, ensuring the highest quality at the most competitive prices. Trust CalStar Services to meet all your waste management requirements with efficiency and excellence.

WHAT WE DO

We're right here in your community, catering to businesses, industries, construction, and homes. Whether you need dumpsters for various projects, a range of container sizes, compactors, tilt hoppers, flatbed services, or flying dumpsters for cranes, we've got you covered-all within your budget. Count on us for a dedicated point of contact to handle all your questions and concerns. We're committed to making your experience simple and reliable.

◆ **Locally Owned & Operated**

◆ **LEED Compliance and Recycling Services**

◆ **Safer, Cleaner, & More Efficient Job Sites.**



CalStar Services

WE ARE YOUR GO TO CONSTRUCTION WASTE HAULER IN THE GREATER LOS ANGELES AREA AND BEYOND



About Us

CalStar Services is a family owned and operated, full service waste management company that offers superior service throughout Los Angeles and the surrounding cities. With over 40 years of operational experience, CalStar Services prides itself on providing the highest level of personal customer service that is incomparable to others.

We provide a variety of services to fulfill all your waste removal requirements. Whether it is a new construction or a weekly collection, we can arrange the best possible set-up for you while guaranteeing the lowest prices available.



CONSTRUCTION SERVICES

We provide comprehensive demolition debris removal with Roll-Off containers. We handle all non-hazardous demolition debris removal.



RESIDENTIAL SERVICES

Anything from cleaning out the garage, annual landscaping, or home remodel, Dumpsters are a perfect solution.

ROLL-OFF Containers

CalStar Services can provide comprehensive demolition debris removal with Roll-Off containers. We can handle all non-hazardous demolition debris removal.

Developers, builders, contractors require the right container so you can keep on track at the end of your phase without headaches. We'll work with you to select the right container and service frequency to manage your waste removal for your projects.

Our temporary container services include dumpster bins, tilt hoppers and roll-off containers in a variety of sizes to fit your waste collection needs. Perfect for commercial and industrial construction projects,

LEED Compliance and Recycling Services

Our commercial and construction services are designed to help our clients meet their recycling goals including LEED certification. Designed to reduce your operating costs and enhance your profitability, our services can also improve employee satisfaction and productivity. But from a broader perspective, we can help you protect and enhance our ecosystem, improve air and water quality, conserve natural resources and reduce solid waste.

Our Services

From start to finish, we will do our part in providing services scaled to meet your project needs along with our dedication to providing reliable and exceptional customer service. We are committed to helping you achieve your financial and sustainability goals through all phases of construction no matter the size of the project by developing solutions that will keep your job site running efficiently.

3 Yard Dumpster Container



Scheduled weekly pick up containers are designed for a temporary waste services. We offer containers ranging from one to six cubic yards.

10 Yard Roll-Off Container



Specifically designed for heavy materials like concrete, asphalt, brick, tile, dirt, and sand.

40 Yard Roll-Off Container



Great for large clean-up, spring / winter clean-up, remodel work or a new construction or demolition job.



Portable Toilet Rental

Fully serviced for your construction job site or special events. All of our units are cleaned and maintained by dedicated professionals.

- CONSTRUCTION PROJECTS
- FAMILY OWNED AND OPERATED
- WE TAILOR OUR SERVICE TO MEET YOUR NEEDS
- WE HAVE THE SERVICES YOU ARE LOOKING FOR!

**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

CR&R INCORPORATED

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	2
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	3
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	4
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	5
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	6
2.39 NPDES.....	6
2.40 Organics Recycling Waiver	6

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	7
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	8
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	13
7.1	Equipment	13
7.2	Compliance with Applicable Laws; Performance Standards.....	13
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	15
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	16
8.1	Commercial Premises Refuse Collection.....	16
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	27
10.1	General Application and Interpretation	27
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	31
10.11	Failure to Report	31
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	32
11.3	Additional Charges and Interest For Late Payments	33
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	34
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	36
13.1	Examination of Records.....	36
13.2	CERCLA Defense Records.....	36
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	37
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	37
15.1	General Indemnification	37
15.2	Hazardous Substances Indemnification	38
15.3	Additional Indemnification Requirements.....	39
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	40
15.7	Replacement Letter of Credit.....	40
16	INSURANCE.....	40
16.1	Insurance Coverage.....	40
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	41
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	42
16.8	Insurance of Subcontractors.....	42
16.9	Verification of Coverage.....	42
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	43
17.4	Termination Procedure.....	44
17.5	City Manager Review	44
17.6	City Council Review	44
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	45
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	45
18.1	Administrative Hearing.....	45
18.2	Other Remedies; Claims	46

18.3 Actions for Damages.....46

19 ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS
AND LIMITATIONS46

20 GENERAL PROVISIONS46

20.1 Force Majeure46

20.2 Property Damage47

20.3 Pavement Damage47

20.4 Right of Entry47

20.5 City’s Authorized Agent47

20.6 Amendments47

20.7 Independent Contractor.....47

20.8 Law to Govern; Venue.....47

20.9 Joint Drafting48

20.10 Section Headings48

20.11 Successors and Assigns.....48

20.12 Waiver.....48

20.13 Notices48

20.14 Severability48

20.15 Exhibits Incorporated.....49

20.16 Attorneys’ Fees and Litigation Costs.....49

20.17 Corporate Resolution49

20.18 Integration49

20.19 Compliance with Law49

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and CR&R Incorporated (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA”), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its Collection methods, nor supervise the Collection

process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3 ☐ AB 1594. "AB 1594" shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, and institutional premises, including, without limitation, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA; RCRA; the Federal Clean Water Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection & Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”),

or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27 ☐ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28 ☐ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29 ☐ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30 ☐ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31 ☐ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32 ☐ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Section 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h), 25501(n), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42, Section 6903(5) of the United States Code and under California Health & Safety Code Section 25501(n); any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 ☐ Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as

“Hazardous Substances,” “hazardous materials,” “Hazardous Wastes,” “toxic waste,” or “toxic substances” or similarly identified as hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7401 et seq.; and (vii) the California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl’s (“PCBs”), petroleum, natural gas and synthetic fuel products, and by-products.

2.34□ Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35□ Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36□ Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37□ Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1393.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which the Parties agree are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises for purposes of this Agreement are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed for purposes of this Agreement to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57□ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises,

including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

2.58.1 ☐ Commercial Edible Food Generator

2.58.2 ☐ Edible Food

2.58.3 ☐ Food Recovery

2.58.4 ☐ Food Recovery Organization

2.58.5 ☐ Food Recover Service

2.58.6 ☐ Large Event

2.58.7 ☐ Large Venue

2.58.8 ☐ Organic Waste

2.58.9 ☐ Tier One Commercial Edible Food Generator

2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2 Amendments to Scope of Franchise; Planning Area 51

3.2.1 ☐ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2 ☐ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3 ☐ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4 ☐ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. In contrast, Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and

is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items commonly known in the waste industry as "universal waste" and/or "e-waste"; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee's right to challenge the terms of this Agreement under federal, state, or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service

pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE

7.1 ☐ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 ☐ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically,

without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee commencing services pursuant to this Agreement (the "Approved Facilities"). The City Manager shall approval the any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporat3ed herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager's approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and to direct Franchisee's Collection Vehicles to only utilize such routes, when necessary, in the City Manager's sole discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee's proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4 ☐ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may, by giving written notice to Franchisee, with or without cause, withdraw any consent given to Franchisee by which commingling is authorized.

7.10 ☐ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11 Franchisee's Containers

7.11.1 ☐ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2 ☐ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3 ☐ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4 ☐ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5 ☐ Franchisee shall replace any damaged or unsightly Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or unsightly condition.

7.11.6 ☐ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7 ☐ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with

gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the “Commercial Premises Recycling Program”) that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). The Village Commercial Premises Recycling Program shall be subject to the City Manager’s reasonable approval on an ongoing basis. Franchisee shall deliver each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers’ actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the terms hereof (the “Commercial Organic Waste Recycling Program”). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer’s actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where there is a repeated refusal to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its

related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customer's in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with the City's obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees, that complies with Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise such Customers of any obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program, utilize an in-house program, provide Edible Foods to Food Recovery Organizations or Food Recovery Services and/or otherwise recycle or divert Organic Waste. Franchisee shall provide copies to City of surveys conducted, and summaries of visual inspections performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such

other information available to Franchisee as may be requested by City or CalRecycle, in a format approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an “Implementation, Outreach and Education Plan” which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee’s Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee’s various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee’s plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee’s Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer’s specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by

the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting

requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by City. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws, including without limitation their obligations related to Edible Food Recovery, to the extent arising out of Franchisee's collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information

shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9 ☐ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10 ☐ Guaranteed Minimum Franchisee Recycling Rate.

Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. Failure to meet, and fully support, the Recycling Diversion Requirement may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of this Section 8.10. If Franchisee fails to cure any noticed violation within a

reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 General

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

9.2 Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its entire fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in a timely manner should doing so become necessary to comply with the Applicable Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6 ☐ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7 ☐ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8 ☐ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9 ☐ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe, unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10 **REPORTING REQUIREMENTS**

10.1□ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual

reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all solid waste collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3 ☐ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4 ☐ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5 ☐ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6 ☐ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3□ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4□ a report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5□ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at

Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprises Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 ☐ Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 ☐ Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 ☐ Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 ☐ Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such

report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11

FRANCHISEE'S CONSIDERATION

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 ☐ Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 ☐ Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the "SB 1383 Compliance Reimbursement Payment"). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 ☐ Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to .25% of its Designated Annual SB 1383 Contribution. Franchisee's Designated Annual SB 1383 Contribution shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all

Solid Waste Collected in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2□ Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1□ For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment is modified to be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee's Designated Annual SB 1383 Contribution for applicable to this payment shall be the pro-rata share of the aforementioned, modified total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. 100% of Franchisee's Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2□ For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee's Designated Annual SB 1383 Contribution shall be the pro-rata share of the aforementioned, unmodified total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. 25% of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025

11.3□ Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1□ A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2□ Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1□ Warranties and Representations.

12.1.1□ Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2□ Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws with respect to the Customers Franchisee services hereunder. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2□ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard,

City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ *Indemnification Requirements.* Franchisee agrees to defend, with counsel approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ *Assistance to City; Payment of Fees, Fines, and Penalties.* In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) Assist City in responding to inquiries from CalRecycle;
- (b) Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;
- (c) Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;
- (d) Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;
- (e) Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;
- (f) Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;
- (g) Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) Be responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and Indemnify and hold harmless City against any fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 ☐ Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 ☐ CERCLA Defense Records. City views the ability to defend against CERCLA and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of concern. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify City's Risk Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 ☐ **Audits by City.** City shall have the right to conduct or to contract with an independent auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City, complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall indemnify and hold harmless the City Indemnitees from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit in law or equity of any and every kind and description (including, but not limited to, injury to and death of any person and damage to property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all

respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing indemnity and hold harmless provisions shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against any claims, actions, suits in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material," the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City's authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City) reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, attorneys' fees, consultant fees, penalties and any and all other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar

costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1 ☐ results in any demand, claim, notice, order, or lawsuit, asserting that any of the Indemnitees is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2 ☐ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2 ☐ Franchisee's obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1 ☐ any Claims brought pursuant to or based on the provisions of CERCLA, RCRA, the California Hazardous Substances Account Act (California Health & Safety Code Sections 25300 et seq.), the California Hazardous Waste Control Laws (California Health and Safety Code Sections 25100 et seq.), the California Porter-Cologne Act (California Water Code Section 13000 et seq.), and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2 ☐ any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3 ☐ any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4 ☐ any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3 ☐ Additional Indemnification Requirements.

15.3.1 ☐ The indemnity and defense obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any affiliate of Franchisee.

15.3.2 ☐ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3 ☐ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the indemnity provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6□ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City, including specifically liquidated damages; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7□ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1□ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office “occurrence” form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee’s performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter “City and City Personnel”) as additional insured for claims arising out of Franchisee’s performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1 ☐ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4 ☐ Workers’ Compensation Insurance.

16.4.1 ☐ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee's completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee's rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5 ☐ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6 ☐ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to "Ongoing Operations"
- (2) Exclude "Contractual Liability"
- (3) Restrict coverage to the "Sole" liability of Franchisee
- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 ☐ Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings

conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4□ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5□ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6□ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay.

17.3.7□ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4□ Termination Procedure. The following procedure shall apply to either of the following:

17.4.1□ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2□ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's

failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7 ☐ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8 ☐ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1 ☐ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2 ☐ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3 ☐ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4 ☐ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9 ☐ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1 ☐ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an

administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2 ☐ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3 ☐ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting five (5) days or less (unless Franchisee is in compliance with the

disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or “other catastrophic events” which are beyond the reasonable control of Franchisee. The term “other catastrophic events” does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies; (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than five (5) days.

20.2□ Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3□ Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4□ Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5□ City’s Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6□ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7□ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers’ compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8□ Law to Govern; Venue. The laws of the State of California shall govern this Agreement. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. §

1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 ☐ Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, California 92623

To Franchisee: CR&R Incorporated
Attn: Julie Barreda
11292 Western Avenue
Stanton, California 90680

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 ☐ Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 ☐ Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 ☐ Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 ☐ Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 ☐ Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 ☐ Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

(signatures on next page)

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20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation


APPROVED AS TO FORM:

Signed by:

E04AA49F96474A7...

City Attorney

Date: 9/11/2024

Signed by:

7809AA719A2B4C7...
By: _____
City Manager

ATTEST:

Date: 9/11/2024

DocuSigned by:

0FCAD91F02E547D...
By: _____
City Clerk

Date: 8/9/2024

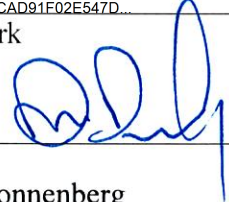
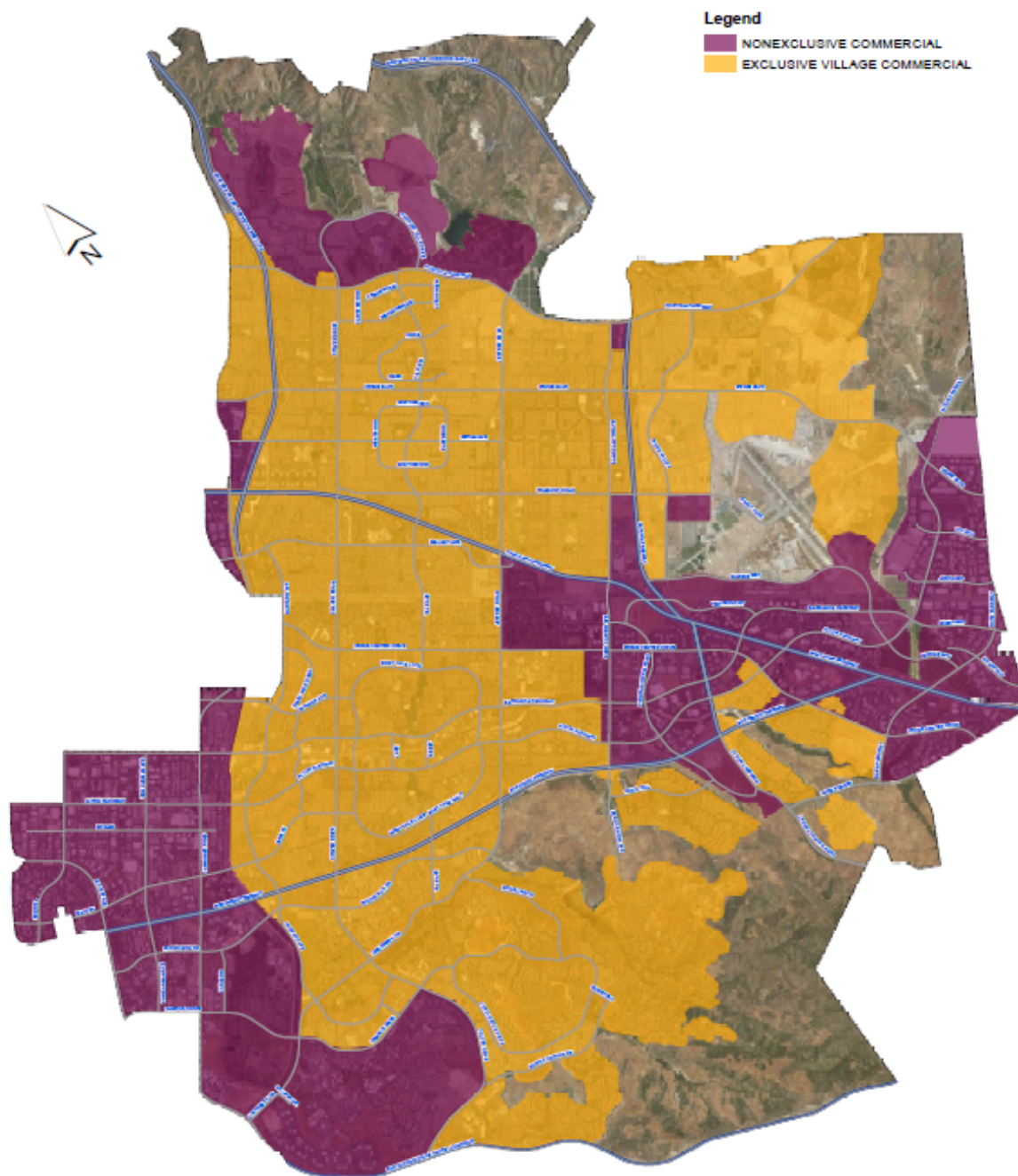
Franchisee 
By: David Ronnenberg
Title: President

EXHIBIT A

Village Commercial Premises Map

CITY OF IRVINE

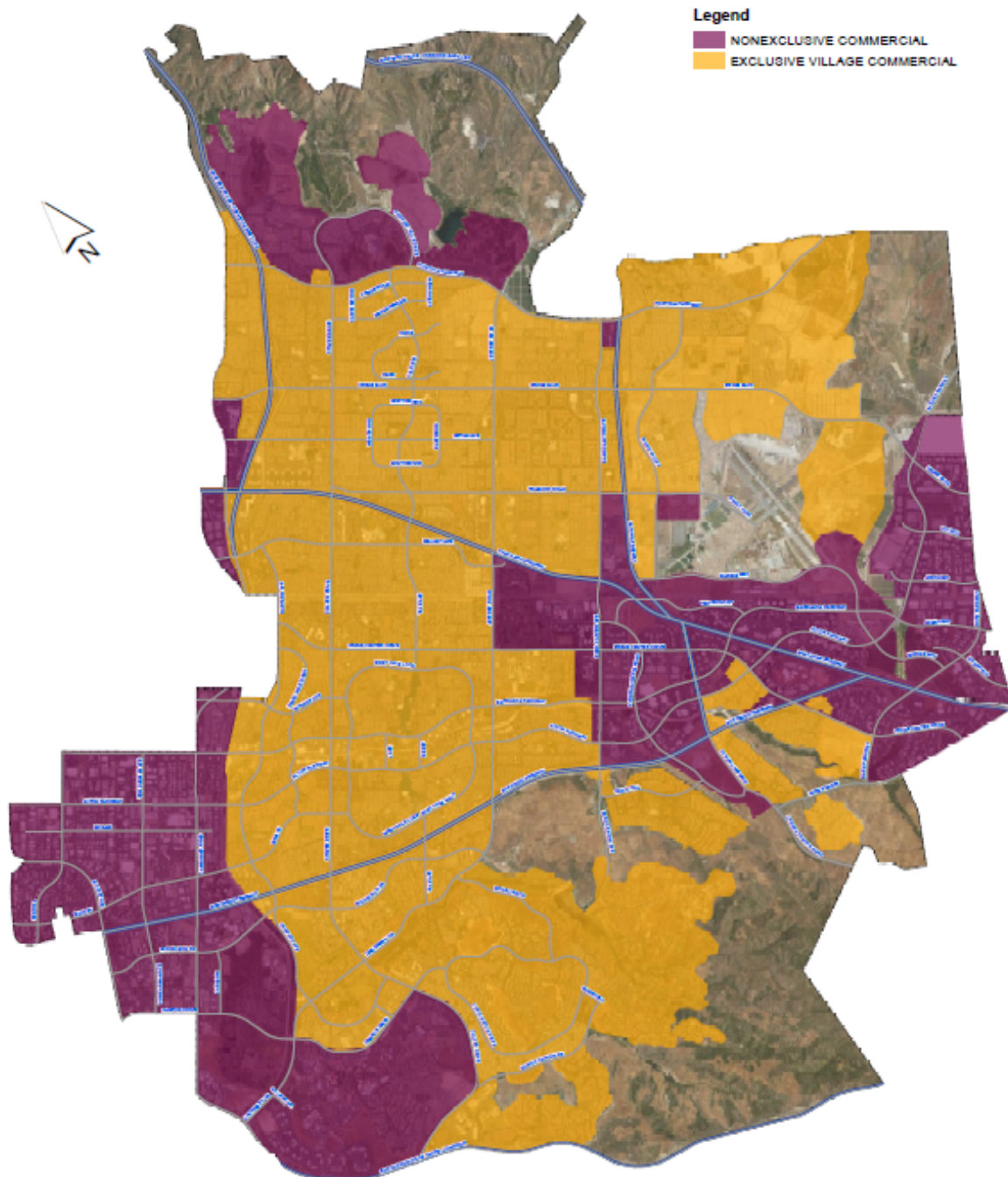


NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C

Workers' Compensation Insurance Certification

Contract Services Description: Solid Waste and Recycling

WORKERS' COMPENSATION DECLARATION

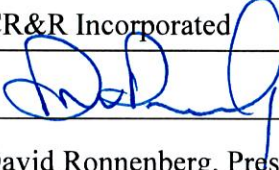
I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	08/09/2024
Contracting Firm:	CR&R Incorporated
Signature:	
Title:	David Ronnenberg, President
Address:	11292 Western Ave, Stanton CA 90680



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/1/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh & McLennan Agency LLC Marsh & McLennan Ins. Agency LLC 1 Polaris Way #300 Aliso Viejo CA 92656	CONTACT NAME: RJ Simmons PHONE (A/C, No. Ext): E-MAIL ADDRESS: OCCerts@MarshMMA.com	FAX (A/C, No):
INSURED CR&R Incorporated 11292 Western Avenue Stanton, CA 90680	INSURER(S) AFFORDING COVERAGE INSURER A: ACE Property & Casualty Insurance Co INSURER B: ACE American Insurance Company INSURER C: Harleysville Insurance Company INSURER D: INSURER E: INSURER F:	NAIC # 20699 22667 23582

COVERAGES **CERTIFICATE NUMBER:** 369321850 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	N	N	HDOG47315050	9/3/2024	9/3/2025	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	MMTH10710455	9/3/2024	9/3/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	WLRC70314800	9/3/2024	9/3/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	EXCESS AUTO LIABILITY	N	N	CRA0000006	9/3/2022	9/3/2025	\$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Refuse Hauling.
Evidence of coverage.

CERTIFICATE HOLDER

CANCELLATION

City of Irvine
1 Civic Center Plaza
Irvine CA 92606

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
CR&R Western MRF	Commingled Recyclables	11292 Western Ave, Stanton CA	714-883-3777	michaels@crrmail.com
CR Transfer Station & MRF	Commingled Recyclable, Organics, and C&D Processing	11232 Knott Ave, Stanton CA	714-883-3777	michaels@crrmail.com
Frank R. Bowerman Landfill	Solid Waste	11002 Bee Canyon Access Rd, Irvine CA	714-834-4000	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

RECYCLABLES

- Aluminum
- Cardboard
- Glass
- Metal
- Paper
- Plastic



- Aluminio
- Cartulina
- Vidrio
- Metal
- Papel
- Plásticos



ORGANIC WASTE

R E C Y C L I N G

YES

FRUITS
VEGETABLES
DAIRY
BREADS
GRAINS
MEAT
SEAFOOD & SHELLS
COFFEE GROUNDS
FILTERS and
PAPER TEA BAGS
FOOD-SOILED
PAPER
EGG SHELLS and
PAPER EGG CARTONS
PLANTS
GRASS
BRANCHES



SÍ

FRUTAS
VERDURAS
PRODUCTOS
LACTEOS
PANES
GRANOS
CARNE
MARISCOS
y CONCHAS
PESCADOS
CAFÉ MOLIDO
DE GRANO,
FILTROS DE CAFE
y POLSAS DE TE
DE PAPEL
PAPEL SUCIOS
CASCARAS DE HUEVO
y CARTONES DE PAPEL
PLANTAS



crrwasteservices.com



Compostable and paper bags are ok.
Las bolsas compostables y de papel están bien.



NO
PLASTIC
GLASS
METAL
LIQUIDS
STYROFOAM
PLASTIC BAGS

NO
PLASTICO
VIDRIO
METAL
LIQUIDOS
ESPUMA de
POLIESTIRENO
BOLSAS DE
PLASTICO

RECYCLABLES

- Aluminum
- Cardboard
- Glass
- Metal
- Paper
- Plastic



- Aluminio
- Cartulina
- Vidrio
- Metal
- Papel
- Plásticos



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

GB Services

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance.....	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3 Actions for Damages.....46

19 ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS
AND LIMITATIONS46

20 GENERAL PROVISIONS47

20.1 Force Majeure47

20.2 Property Damage47

20.3 Pavement Damage47

20.4 Right of Entry47

20.5 City’s Authorized Agent47

20.6 Amendments48

20.7 Independent Contractor.....48

20.8 Law to Govern; Venue.....48

20.9 Joint Drafting48

20.10 Section Headings48

20.11 Successors and Assigns.....48

20.12 Waiver48

20.13 Notices49

20.14 Severability49

20.15 Exhibits Incorporated.....49

20.16 Attorneys’ Fees and Litigation Costs.....49

20.17 Corporate Resolution49

20.18 Integration49

20.19 Compliance with Law50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and GB Services (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

2.58.1 ☐ Commercial Edible Food Generator

2.58.2 ☐ Edible Food

2.58.3 ☐ Food Recovery

2.58.4 ☐ Food Recovery Organization

2.58.5 ☐ Food Recover Service

2.58.6 ☐ Large Event

2.58.7 ☐ Large Venue

2.58.8 ☐ Organic Waste

2.58.9 ☐ Tier One Commercial Edible Food Generator

2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 The number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 A report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 The number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2024 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) Assist City in responding to inquiries from CalRecycle;

(b) Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□ any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□ any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□ any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: GB Services
P.O. Box 546
Chino Hills CA 91709

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

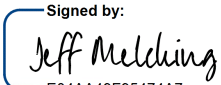
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.


IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F06474A7...
City Attorney

Date: 9/3/2024

Signed by:

7809AA719A2B4C7...
By: City Manager

ATTEST:

Date: 9/3/2024

DocuSigned by:

0ECAD91E02E547D...
By: City Clerk

Date: 8/30/2024


Franchisee GB Services
By: 
Title: Owner / Pres

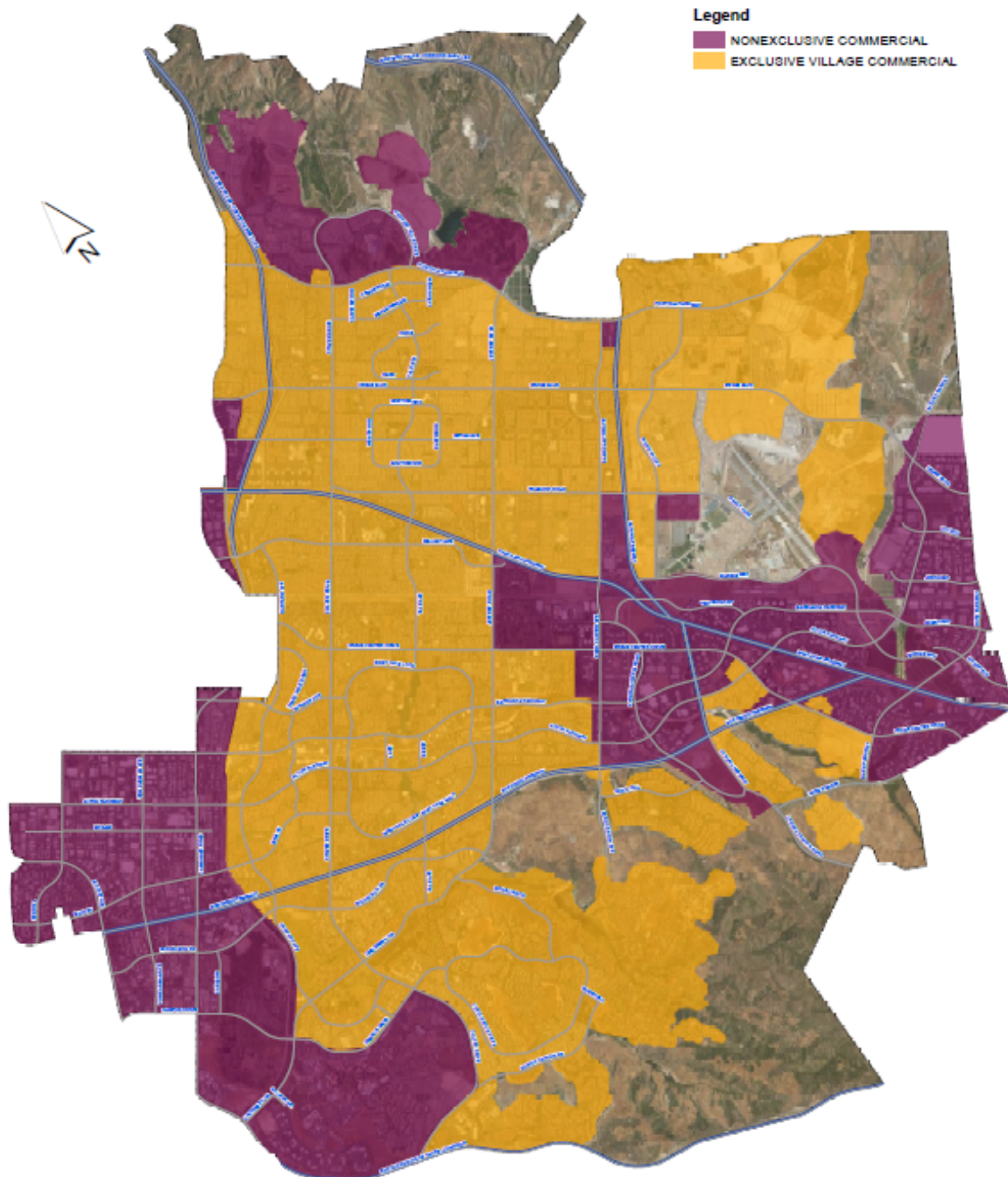
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: C & D Waste Hauler**WORKERS' COMPENSATION DECLARATION**

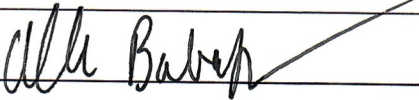
I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/30/2024
Contracting Firm:	GB Services
Signature:	
Title:	Owner
Address:	PO Box 546 Chino Hills, CA 91709



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/3/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, LLC 745 Francis Street San Luis Obispo CA 93401		CONTACT NAME: Erin Viker PHONE (A/C, No, Ext): 877-730-1222 E-MAIL ADDRESS: FAX (A/C, No): 805-545-8224	
License#: 0D69293 GBSERVI-01		INSURER(S) AFFORDING COVERAGE	
INSURED G.B. Services, Inc P.O. Box 546 Chino Hills CA 91709		INSURER A: Key Risk Insurance Company INSURER B: Benchmark Specialty Insurance Co INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 10885 17180	

COVERAGES

CERTIFICATE NUMBER: 393196186

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			MNGR-P-0000362-01	2/13/2024	2/13/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Pollution Liability \$ 1,000,000
A	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			BAP2031221-14	2/13/2024	2/13/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/> CLAIMS-MADE			MNGR-X-0000236-01	2/13/2024	2/13/2025	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Evidence of Coverage Only

CERTIFICATE HOLDER**CANCELLATION**

City of Irvine

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ADDITIONAL INSURED ENDORSEMENT - OWNERS, LESSEES OR CONTRACTORS

Effective Date: 02/13/2023
Policy Number: MNGR-P-0000362
Insured Name: G&B Service Inc dba G&B Rubbish & Roll Off Service
Writing Company: Benchmark Specialty Insurance Company

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM CONTRACTORS POLLUTION LIABILITY POLICY

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S):

Any person(s) or organization(s) whom the Named Insured (Named Insured) agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.
--

The following condition is added to the policy and supersedes anything to the contrary:

- A. SECTION II – WHO IS AN INSURED is amended to include the person(s) or organization shown in the SCHEDULE as an additional insured, but only with respect to liability arising out of your ongoing operations performed for that insured.
- B. With respect to the insurance afforded to these additional insureds, the following exclusion is added:

This insurance does not apply to **bodily injury** ("bodily injury") or **property damage** ("property damage") occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance, or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or
- (2) That portion of **your work** ("your work") out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

All other terms and conditions remain the same.

HOME OFFICE

SAN FRANCISCO

ANNUAL RATING ENDORSEMENT

IT IS AGREED THAT THE CLASSIFICATIONS AND RATES PER \$100 OF REMUNERATION APPEARING IN THE CONTINUOUS POLICY ISSUED TO THIS EMPLOYER ARE AMENDED AS SHOWN BELOW.

HERE ARE YOUR NEW RATES FOR THE PERIOD INDICATED. IF YOUR NAME OR ADDRESS SHOULD BE CORRECTED OR IF INSURANCE IS NOT NEEDED FOR NEXT YEAR, PLEASE TELL US.

IMPORTANT

THIS IS NOT A BILL

CONTINUOUS POLICY

9080552-23

SEND NO MONEY UNLESS STATEMENT IS ENCLOSED

THE RATING PERIOD BEGINS AND ENDS AT 12:01AM
PACIFIC STANDARD TIME

RATING PERIOD 12-01-23 TO 12-01-24

GB SERVICES, INC
PO BOX 546
CHINO HILLS, CALIF 91709

DEPOSIT PREMIUM \$0.00
MINIMUM PREMIUM \$1,565.00
PREMIUM ADJUSTMENT PERIOD MONTHLY
R SC

NAME OF EMPLOYER- G.B. SERVICES, INC.
(A CORPORATION)

CODE NO. PRINCIPAL WORK AND RATES EFFECTIVE FROM 12-01-23 TO 12-01-24

		PREMIUM BASIS	BASE RATE	INTERIM BILLING RATE*
9403-1	GARBAGE OR REFUSE COLLECTING	251080	9.07	6.88
8810-1	CLERICAL OFFICE EMPLOYEES--N.O.C.	60265	.53	.40
8871-1	CLERICAL TELECOMMUTER EMPLOYEES--N.O.C.	0	.24	.18

EXPERIENCE MODIFICATION

12-01-23 TO 12-01-24

81 8

*****BUREAU NOTE INFORMATION*****

FEIN 510650929

TOTAL ESTIMATED ANNUAL PREMIUM \$14,188

HOME OFFICE

SAN FRANCISCO

ANNUAL RATING ENDORSEMENT

IT IS AGREED THAT THE CLASSIFICATIONS AND RATES PER \$100 OF REMUNERATION APPEARING IN THE CONTINUOUS POLICY ISSUED TO THIS EMPLOYER ARE AMENDED AS SHOWN BELOW.

HERE ARE YOUR NEW RATES FOR THE PERIOD INDICATED. IF YOUR NAME OR ADDRESS SHOULD BE CORRECTED OR IF INSURANCE IS NOT NEEDED FOR NEXT YEAR, PLEASE TELL US.

IMPORTANT

THIS IS NOT A BILL

CONTINUOUS POLICY

9080552-23

SEND NO MONEY UNLESS STATEMENT IS ENCLOSED

THE RATING PERIOD BEGINS AND ENDS AT 12:01AM
PACIFIC STANDARD TIME

RATING PERIOD 12-01-23 TO 12-01-24

* INTERIM BILLING RATES WILL BE USED ON PAYROLL REPORTS. THEY TAKE INTO ACCOUNT RATING PLAN CREDITS (OR DEBITS) WHICH WILL APPLY AT FINAL BILLING AND AN ESTIMATE OF YOUR PREMIUM DISCOUNT AS DETAILED BELOW.

RATING PLAN CREDITS (DEBITS) EFFECTIVE FROM 12-01-23 TO 12-01-24

RATING PLAN MODIFIER	0.82110
----------------------	---------

ESTIMATED PREMIUM DISCOUNT MODIFIER	<u>0.92379</u>
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COMPOSITE FACTOR APPLIED TO BASE RATES TO DERIVE INTERIM BILLING RATES	0.75852
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*
* PREMIUM DISCOUNT SCHEDULE EFFECTIVE FROM 12-01-23 TO 12-01-24 *
* ESTIMATED MODIFIED PREMIUM IS DISCOUNTED ACCORDING TO THE FOLLOWING SCHEDULE: *
* FIRST ABOVE *
* \$5,000 \$5,000 *
* 0.0% 11.3% *
*

THE ESTIMATED PREMIUM DISCOUNT IS BASED ON AN ESTIMATE OF YOUR PAYROLL. ACTUAL PREMIUM DISCOUNT APPLIED AT FINAL BILLING WILL BE BASED ON THE ACTUAL PAYROLL REPORTED ON YOUR POLICY AND SUBJECT TO AUDIT.

IT IS AGREED THAT THE CLASSIFICATIONS AND RATES PER \$100 OF REMUNERATION APPEARING IN THE CONTINUOUS POLICY ISSUED TO THIS EMPLOYER ARE AMENDED AS SHOWN BELOW.

CONTINUOUS POLICY 9080552-23

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT YOUR LOCAL STATE FUND OFFICE BELOW:

CSC - POLICY AT VACAVILLE
1020 VAQUERO CIRCLE
VACAVILLE , CA 95688
(877) 405-4545

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions agreements or limitations of the Policy other than as herein stated.

When countersigned by a duly authorized officer or representative of the State Compensation Insurance Fund, these declarations shall be valid and form part of the Policy.



AUTHORIZED REPRESENTATIVE



PRESIDENT AND CEO

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:
Tierra Verde Industries	C&D	8065 Marine Way Irvine, Ca, 92618	(949)551-0363
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
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Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

Revised: 04.16.24rr

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Commercial, Industrial and Residential Waste Hauling

GB Services

**FAST
DELIVERY!**

**Weekly Contracts
& On-Demand Rentals**

**ROLL-OFFS &
TRASH BINS**



1-800-572-0086

***Are you getting the most out of your trash service?
Find a recycling program that Works for You!
\$\$\$\$ Save Money! Save Money! Save Money! \$\$\$\$***

FREE SITE VISIT

Did you know that when we conduct site visits at your business or apartment complex, we can also help answer questions about your trash and recycling service and even potentially save you money? Ask us about our **FREE SITE VISITS** and **RECYCLING CONSULTATIONS**.

EACH VISIT

At each visit, we will review your service subscription, which includes the number, size and frequency of pick-up for your trash, recycling bins and roll-off boxes. We can help create a recycling program that's tailored specifically for your property. This can help reduce the amount of trash that's getting thrown away and help save you money and the environment! We can even check your containers for you!

QUESTIONS

If you have any questions or would like to schedule a site visit with us, please contact our Customer Service Department at 1-800-572-0086 between 8am and 4pm, Monday through Friday, or email us at sales@gbrubbish.com

Together, let's make a difference!

WE CAN PICK IT UP

Working on a project?

Get a container that fits the job! If you need a large roll-off container or a 3 yard bin, please call our customer service department today for a quote.



3 Yard Bin
4'H x 4'W x 6'L

**Español por
el otro lado.**

Moving out? Schedule a bulky item pick-up!

If you have items that don't fit in your weekly container, please contact our Customer Service Department to schedule a pick-up. It'll keep our neighborhoods clean and safe. Contact us for more information.

Exhibit E**Implementation, Outreach and Education Plan****Construction and Demolition Recycling
SB 1383 Compliance Guide – City of Irvine**

In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

In and Out Removal

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and In and Out Removal (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

2.58.1 ☐ Commercial Edible Food Generator

2.58.2 ☐ Edible Food

2.58.3 ☐ Food Recovery

2.58.4 ☐ Food Recovery Organization

2.58.5 ☐ Food Recover Service

2.58.6 ☐ Large Event

2.58.7 ☐ Large Venue

2.58.8 ☐ Organic Waste

2.58.9 ☐ Tier One Commercial Edible Food Generator

2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 ☐ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 ☐ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 ☐ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 ☐ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 ☐ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 ☐ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 a report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

(a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1 ☐ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4 ☐ Workers’ Compensation Insurance.

16.4.1 ☐ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5 ☐ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6 ☐ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: In and Out Removal
Office Manager
4765 E. State St.
Montclair, CA 91762

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

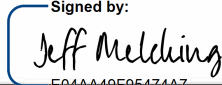
20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice


IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F95474A7...
City Attorney

Date: 9/3/2024

Signed by:

7809AA719A2B4C7...
By: _____
City Manager

ATTEST:

Date: 9/3/2024

DocuSigned by:

0FCAD91E02E547D...
By: _____
City Clerk

Date: 08.29.2024

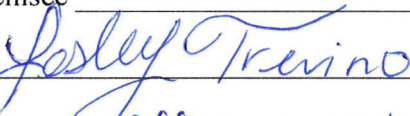
Franchisee In and Out Removal
By: 
Title: Office coord.

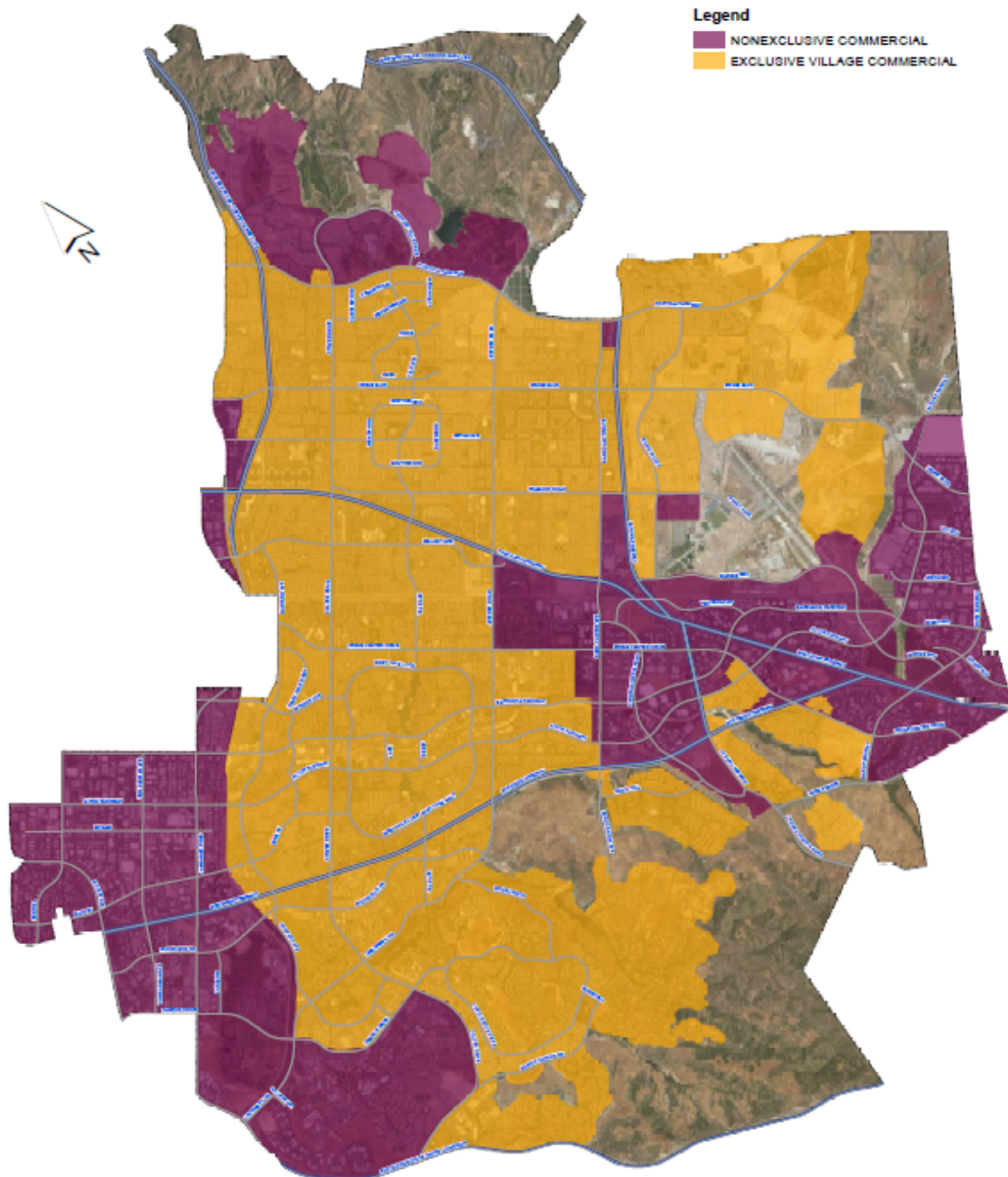
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C

Workers' Compensation Insurance Certification

Contract Services Description: C & D / Solid Waste

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	08.29.2024
Contracting Firm:	In & Out Removal
Signature:	Yasley Trevino
Title:	office coord.
Address:	4765 E. State ST Montclair, CA 91762



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/28/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lukmar Insurance Services Inc 15455 San Fernando Mission Blvd Suite 208 Mission Hills, CA 91345	CONTACT NAME: PHONE (A/C, No, Ext): 818-951-4393 FAX (A/C, No): 818-951-9551 E-MAIL ADDRESS: joann@lukmar.com												
INSURER(S) AFFORDING COVERAGE													
INSURED Troy Trevino Inc dba: In and Out Removal 4765 E State St Montclair CA 91762	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">INSURER A: Benchmark Insurance Company</td> <td style="width: 20%; text-align: center;">NAIC # 41394</td> </tr> <tr> <td>INSURER B: Allied World Surplus Lines Insurance Company</td> <td style="text-align: center;">24319</td> </tr> <tr> <td>INSURER C: Everest National Insurance Company</td> <td style="text-align: center;">10120</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER A: Benchmark Insurance Company	NAIC # 41394	INSURER B: Allied World Surplus Lines Insurance Company	24319	INSURER C: Everest National Insurance Company	10120	INSURER D:		INSURER E:		INSURER F:	
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INSURER E:													
INSURER F:													

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS														
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		5054-2080	09/16/2023	09/16/2024	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td style="text-align: right;">\$ 50,000</td></tr> <tr><td>MED EXP (Any one person)</td><td style="text-align: right;">\$ 5,000</td></tr> <tr><td>PERSONAL & ADV INJURY</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$ 2,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td style="text-align: right;">\$ 2,000,000</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000	MED EXP (Any one person)	\$ 5,000	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 2,000,000	PRODUCTS - COMP/OP AGG	\$ 2,000,000		\$
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	\$																				
C	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X		CF4CA01641-241	04/24/2024	04/24/2025	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>BODILY INJURY (Per person)</td><td style="text-align: right;">\$</td></tr> <tr><td>BODILY INJURY (Per accident)</td><td style="text-align: right;">\$</td></tr> <tr><td>PROPERTY DAMAGE (Per accident)</td><td style="text-align: right;">\$</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$		\$				
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B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			5056-0709	09/16/2023	09/16/2024	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$ 5,000,000</td></tr> <tr><td>AGGREGATE</td><td style="text-align: right;">\$ 5,000,000</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	EACH OCCURRENCE	\$ 5,000,000	AGGREGATE	\$ 5,000,000		\$								
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	\$																				
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	CST5026512	12/31/2023	12/31/2024	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td><input checked="" type="checkbox"/> PER STATUTE</td> <td><input type="checkbox"/> OTH-ER</td> <td></td> </tr> <tr><td>E.L. EACH ACCIDENT</td><td></td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td></td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td></td><td style="text-align: right;">\$ 1,000,000</td></tr> </table>	<input checked="" type="checkbox"/> PER STATUTE	<input type="checkbox"/> OTH-ER		E.L. EACH ACCIDENT		\$ 1,000,000	E.L. DISEASE - EA EMPLOYEE		\$ 1,000,000	E.L. DISEASE - POLICY LIMIT		\$ 1,000,000		
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B	Contractors Pollution Liability			5054-2080	09/16/2023	09/16/2024	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Each Occurrence</td><td style="text-align: right;">\$1,000,000</td></tr> <tr><td>Aggregate Limit</td><td style="text-align: right;">\$2,000,000</td></tr> </table>	Each Occurrence	\$1,000,000	Aggregate Limit	\$2,000,000										
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") are named as additional insured per CG2010-0413 and CG2037-0413, primary and non-contributory wording applies per SEN0001400-0816, commercial Auto Additional insured per CA2048-1013, primary and non-contributory wording per ECA24509-0414, Blanket waiver of subrogation applies to workers compensation per WC040306-0484 as required by written. contract, 30-day notice of cancellation / 10-day notice for non-payment of premium

CERTIFICATE HOLDER**CANCELLATION**

City of Irvine Attn: City Manager One Civic Center Plaza Irvine, CA 92623	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

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POLICY NUMBER: 5054-2080

COMMERCIAL GENERAL LIABILITY
CG 20 10 04 13**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Any person or organization to whom the Named Insured has agreed by a fully executed written contract that such person or organization be added as an Additional Insured, but only with respect to operations performed by or on behalf of the Named Insured and only with respect to occurrences subsequent to the making of such fully executed written contract otherwise covered by this insurance.	Where specified by fully executed written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

POLICY NUMBER: 5054-2080

2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

POLICY NUMBER: 5054-2080

COMMERCIAL GENERAL LIABILITY
CG 20 37 04 13**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Any person or organization to whom the Named Insured has agreed by a fully executed written contract that such person or organization be added as an Additional Insured for Completed Operations Coverage, but only with respect to operations performed by or on behalf of the Named Insured and only with respect to occurrences subsequent to the making of such fully executed written contract otherwise covered by this insurance.	Where specified by fully executed written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

This endorsement, effective: 09/16/2023
(at 12:01 A.M. standard time at the address of the Named Insured as showing in the Declarations)
forms a part of Policy No: 5054-2080
Issued to: Troy Trevino Inc dba In And Out Removal
By: Allied World Surplus Lines Insurance Company

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY / NON-CONTRIBUTORY INSURANCE ENDORSEMENT
(BLANKET)**

Name of Person or Organization	Name of Project
Any person or organization to whom the Named Insured has agreed by a written contract that was fully executed prior to an "occurrence" that such person or organization be added as an additional insured under this policy on a primary and noncontributory basis, but only with respect to operations performed by or on behalf of the Named Insured and only with respect to "occurrences" subsequent to the making of such fully executed written contract otherwise covered by this policy.	Where specified by fully executed written contract that was fully executed prior to an "occurrence".
Effective Date: 09/16/2023	

It is agreed that this policy is amended as follows:

Notwithstanding any other provision of this policy to the contrary, the insurance afforded to the person or organization named in the above Schedule shall be primary to, and non-contributory with, any other insurance available to such person or organization, but only as respects liability resulting from “your work” performed by the Named Insured at the project designated in the Schedule above for the person or organization named in the Schedule above.

This endorsement applies only to “bodily injury” or “property damage” caused by an “occurrence” under Coverage **A** and not otherwise excluded in the policy.

All other terms, conditions and exclusions under the policy are applicable to this Endorsement and remain unchanged.

POLICY NUMBER: CF4CA01641-241

COMMERCIAL AUTO
CA 20 48 10 13**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****DESIGNATED INSURED FOR
COVERED AUTOS LIABILITY COVERAGE**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:**Endorsement Effective Date:****SCHEDULE****Name Of Person(s) Or Organization(s):**

ALL PERSONS OR ORGANIZATIONS AS REQUIRED BY WRITTEN CONTRACT WITH THE NAMED INSURED. THE WRITTEN ONTRACT MUST BE SIGNED PRIOR TO THE DATE OF THE "ACCIDENT".

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.

POLICY NUMBER: CF4CA01641-241

COMMERCIAL AUTO
ECA 24 509 04 14

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION – BLANKET

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE PART

Paragraph **c.** of the **Other Insurance General Condition** is replaced by the following:

- c.** Regardless of the provisions of Paragraph **a.** above, this Coverage Form's Liability Coverage is primary and we will not seek contribution from any other insurance for any liability assumed under an "insured contract" that requires liability to be assumed on a primary noncontributory basis.

Additionally, only the coverage and limit of insurance requirements of the "insured contract" shall apply, and in no event shall those requirements exceed the coverage and limits of insurance provided under this policy.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2.00% of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization	Job Description
Any person or organization as required by written contract	

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date: 12/31/2023

Policy No.: CST5026512

Endorsement No.

Policy Effective Dates: 12/31/2023 - 12/31/2024

Insured: Troy Trevino Inc

Carrier Name / Code: Benchmark Insurance Company A

WC 04 03 06

(Ed. 04-84)

Countersigned by

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
Sunset Environmental	C&D Mixed	16122 Construction Circle West, Irvine, CA	949-451-2600	Click here to enter text.
Tierra Verde Industries	C&D Mixed	8065 Marine Way, Irvine, CA	949-551-0363	Click here to enter text.

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Exhibit E**Implementation, Outreach and Education Plan****Construction and Demolition Recycling
SB 1383 Compliance Guide – City of Irvine**

In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Interior Removal Specialist, Inc.

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3 Actions for Damages.....46

19 ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS
AND LIMITATIONS46

20 GENERAL PROVISIONS47

20.1 Force Majeure47

20.2 Property Damage47

20.3 Pavement Damage47

20.4 Right of Entry47

20.5 City’s Authorized Agent47

20.6 Amendments48

20.7 Independent Contractor.....48

20.8 Law to Govern; Venue.....48

20.9 Joint Drafting48

20.10 Section Headings48

20.11 Successors and Assigns.....48

20.12 Waiver48

20.13 Notices49

20.14 Severability49

20.15 Exhibits Incorporated.....49

20.16 Attorneys’ Fees and Litigation Costs.....49

20.17 Corporate Resolution49

20.18 Integration49

20.19 Compliance with Law50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and Interior Removal Specialist, Inc. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1□ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2□ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3□ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4□ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5□ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6□ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~The~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~The~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1 ☐ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4 ☐ Workers’ Compensation Insurance.

16.4.1 ☐ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5 ☐ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6 ☐ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Interior Removal Specialist, Inc.
Attn: Virginia Herrera
8990 Atlantic Avenue
South Gate, CA 90280

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

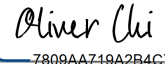
CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

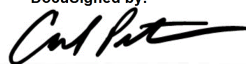
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City Attorney

Date: 8/30/2024

Signed by:

7809AA719A2B4C7...
By: City Manager

ATTEST:

Date: 8/30/2024

DocuSigned by:

0FCAD91F02E547D...
By: City Clerk

Date: 8/22/24

Franchisee Interior Removal Specialist, Inc.

By: 

Title: Corporate Officer

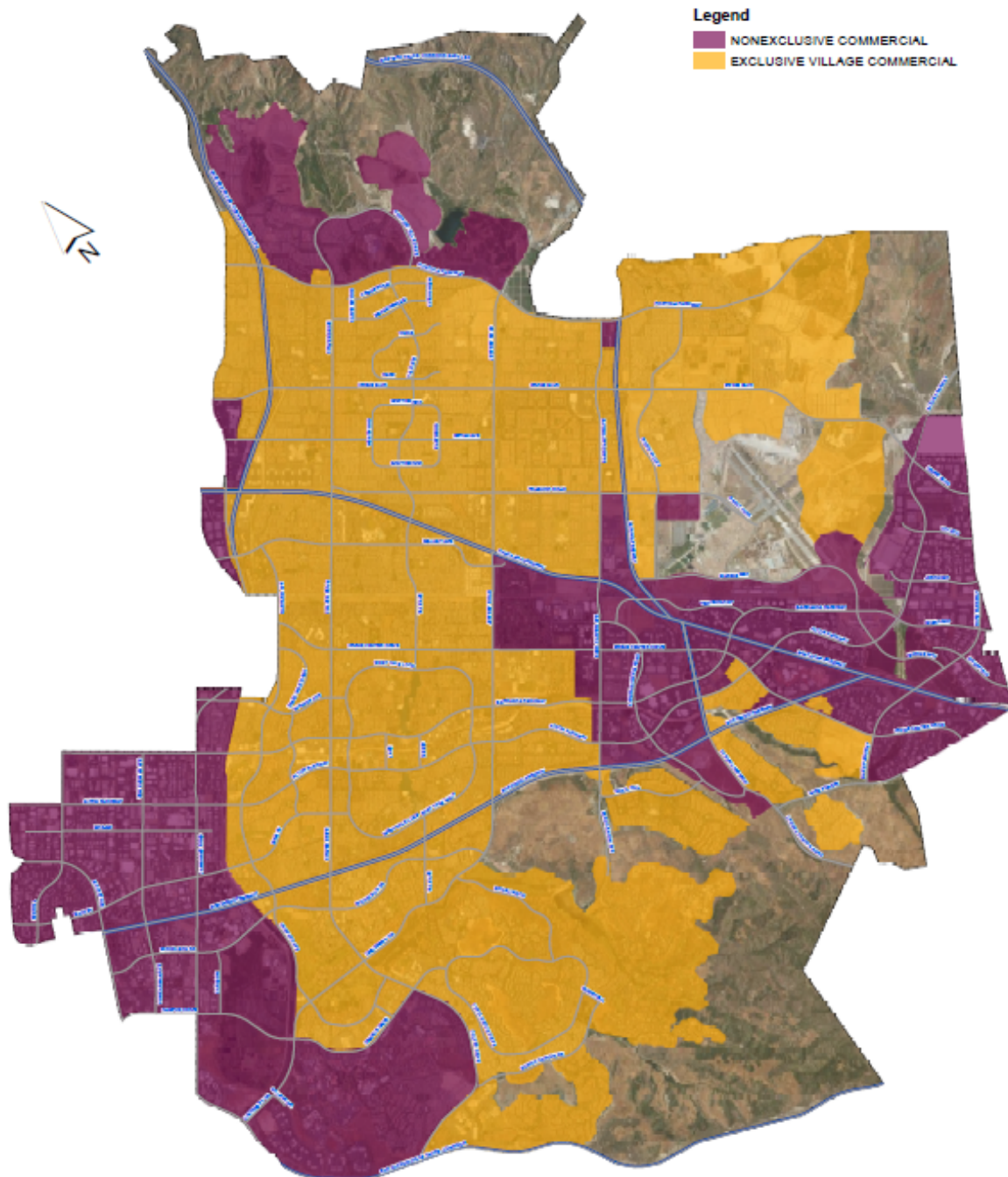
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Hauling Services (C&D Debris)**WORKERS' COMPENSATION DECLARATION**

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/20/24
Contracting Firm:	Interior Removal Specialist, Inc
Signature:	
Title:	Corporate Officer
Address:	8990 Atlantic Ave. South Gate, CA 90280



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/8/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER IMA, Inc. 3475 E. Foothill Blvd., Suite 100 Pasadena, CA 91107 www.boltonco.com 0H64724		CONTACT NAME: PHONE (A/C, No. Ext): (626) 799-7000 FAX (A/C, No): (626) 583-2117 E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Nautilus Insurance Company	
		INSURER B: Zurich American Insurance Company	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 81358040

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Ded per Occ \$5,000 (BI/PD Combined) GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>		ECP203368813	12/31/2023	1/1/2025	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BAP380493704	10/1/2023	10/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			FFX203368913	12/31/2023	1/1/2025	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> Y <input type="checkbox"/> N/A		WC551373010	10/1/2023	10/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B	Auto Physical Damage			BAP380493704	10/1/2023	10/1/2024	See Deductible Page See Deductible Page

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

GL Additional Insured & Primary & Non-Contributory wording applies per BSUM 1200 1021 only as required by contract/agreement.
 Additional Insured(s): City of Irvine.

CERTIFICATE HOLDER

CANCELLATION

City of Irvine
 P.O. Box 19575
 Irvine, CA Irvine

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Jane Medel


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ACORD 25 (2016/03)

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POLICY CHANGES

POLICY CHANGE NUMBER:

POLICY NUMBER ECP203368813	POLICY CHANGES EFFECTIVE 12/31/2023	COMPANY Nautilus Insurance Company
NAMED INSURED Interior Removal Specialist, Inc. 8990 Atlantic Avenue South Gate CA 90280		AUTHORIZED REPRESENTATIVE 
COVERAGE PARTS AFFECTED: Coverage A Bodily Injury and Property Damage Liability		

Additional Insured - Owners, Lessees or Contractors - Scheduled Person or Organization

This endorsement modifies insurance provided under the following:

COVERAGE A AND B – GENERAL LIABILITY

SCHEDULE

Name of Person or Organization:

Any person or organization that you are required by written contract or agreement to include as an additional insured

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. Section III – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

B. With respect to the insurance afforded to these additional insureds, the following exclusion is added:

2. Exclusions

This insurance does not apply to **Bodily Injury** or **Property Damage** occurring after:

(1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or

(2) That portion of **Your Work** out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of


the same project.

C. With respect to damages caused by **Your Work**, as described above, the coverage provided hereunder shall be primary and not contributing with any other insurance available to those person(s) or organization(s) shown in the schedule above.

All other terms and conditions remain unchanged.

POLICY CHANGES

POLICY CHANGE NUMBER:

POLICY NUMBER ECP203368813	POLICY CHANGES EFFECTIVE 12/31/2023	COMPANY Nautilus Insurance Company
NAMED INSURED Interior Removal Specialist, Inc. 8990 Atlantic Avenue South Gate CA 90280		AUTHORIZED REPRESENTATIVE 
COVERAGE PARTS AFFECTED: Coverage A Bodily Injury and Property Damage Liability		

Additional Insured - Owners, Lessees or Contractors - Completed Operations

This endorsement modifies insurance provided under the following:

COVERAGE A AND B – GENERAL LIABILITY

SCHEDULE

Name of Person or Organization: Any person or organization that you are required by written contract or agreement to include as an additional insured
Location And Description of Completed Operations: Any location
Additional Premium: Included

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

Section III – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of **Your Work** at the location designated and described in the schedule of this endorsement performed for that insured and included in the **Products-Completed Operations Hazard**.

With respect to damages caused by Your Work, as described above, the coverage provided hereunder shall be primary and not contributing with any other insurance available to those person(s) or organization(s) shown in the schedule above.

All other terms and conditions remain unchanged.

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Construction & Demolition Recycling, Inc.
9309 Rayo Ave
South Gate, CA 90280

Madison Materials
1035 E. 4th St.
Santa Ana, CA 92701

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Our objective is to streamline our outreach by providing new clients with a clear information on acceptable materials, supported by reminder emails and digital resources. Clients will continue to receive easy-to-understand diversion reports at project completion to encourage continued participation.

EXHIBIT E

Implementation, Outreach and Education Plan

Construction and Demolition Recycling SB 1383 Compliance Guide – City of Irvine



In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the [permitting](https://www.cityofirvine.org/c&d) process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Kevin Ray Demolition, Inc

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and Kevin Ray Demolition, Inc. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

2.58.1 ☐ Commercial Edible Food Generator

2.58.2 ☐ Edible Food

2.58.3 ☐ Food Recovery

2.58.4 ☐ Food Recovery Organization

2.58.5 ☐ Food Recover Service

2.58.6 ☐ Large Event

2.58.7 ☐ Large Venue

2.58.8 ☐ Organic Waste

2.58.9 ☐ Tier One Commercial Edible Food Generator

2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 ☐ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 ☐ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 ☐ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 ☐ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 ☐ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 ☐ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1□ Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2□ Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3□ Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~the~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ a report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~the~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 ☐ Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 ☐ Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2024 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2026.

11.3 ☐ Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 ☐ A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 ☐ Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 ☐ Warranties and Representations.

12.1.1 ☐ Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 ☐ Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) Assist City in responding to inquiries from CalRecycle;

(b) Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 ☐ Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 ☐ CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 ☐ Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Kevin Ray Demolition, Inc.
580-A Explorer St.
Brea, CA. 92821

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

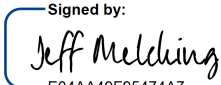
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F95474A7...

City Attorney


Date: 9/3/2024

Signed by:

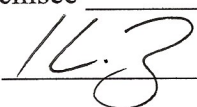
7809AA719A2B4C7
By: _____
City Manager

ATTEST:

Date: 9/3/2024

DocuSigned by:

0FCAD91F02E547D...
By: _____
City Clerk

Date: 8/30/2024

Franchisee Kevin Ray Demolition, Inc.
By: 

Title: OWNER

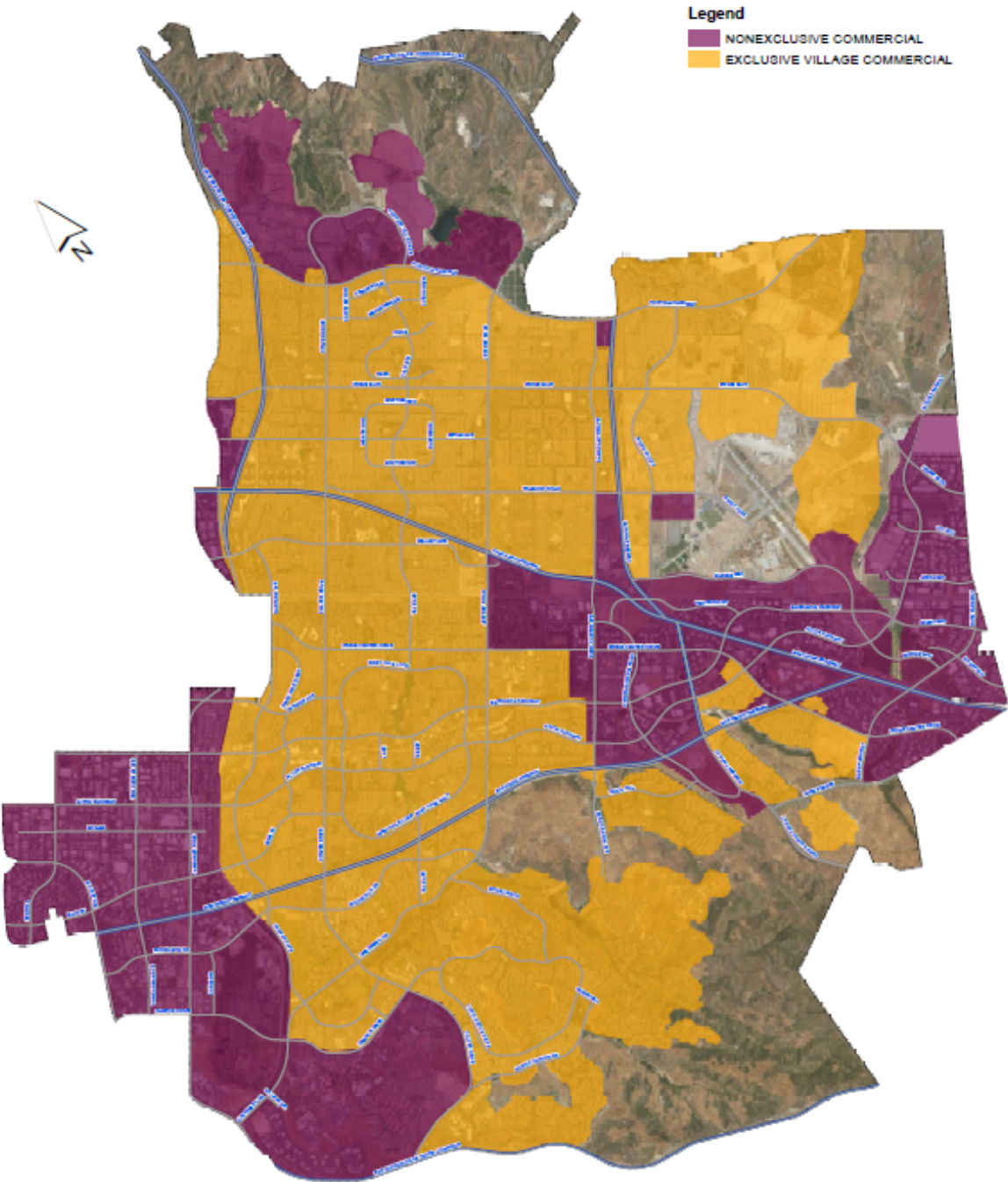
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C

Workers' Compensation Insurance Certification

Contract Services Description: Hauler / C & D

WORKERS' COMPENSATION DECLARATION

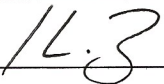
I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/30/2024
Contracting Firm:	Kevin Ray Demolition, Inc.
Signature:	
Title:	OWNER
Address:	580-A Explorer St., Brea, CA. 92821

3

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

[illegible]

REVISION NUMBER:

[illegible][illegible][illegible]



CERTIFICATE OF LIABILITY INSURANCE

Acct#: 2528460

DATE (MM/DD/YYYY)

9/3/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Insurance Services, LLC 2502 N Rocky Point Drive Tampa, FL 33607	CONTACT NAME: PHONE (A/C, No. Ext): 844-290-4908 E-MAIL ADDRESS: BBSIcerts@locktonaffinity.com FAX (A/C, No): INSURER(S) AFFORDING COVERAGE INSURER A: Ace American Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	NAIC # 22667
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COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG \$ \$ \$ \$ \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) \$ \$ \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A	X	C55603157	4/1/2024	4/1/2025 X PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 2,000,000 E.L. DISEASE - EA EMPLOYEE \$ 2,000,000 E.L. DISEASE - POLICY LIMIT \$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Policy State = CA
Waiver of Subrogation in favor of certificate holder when required by written contract
All CA Operations

CERTIFICATE HOLDER

The City Of Irvine Public Works Department
PO Box 19575
Irvine, CA 92623

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Lisa Abernathy

Workers' Compensation and Employers' Liability Policy

Insured

KEVIN RAY DEMOLITION INC
580 EXPLORER STREET, STE A
BREA, CA 92821

Policy Number

Effective Date

WLR C55603157

Period of Insurance

4/1/2024 to 4/1/2025

Reinstatement Date

9/3/2024

Insurance Company

Ace American Insurance Company

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

CALIFORNIA WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We, the undersigned, hereby certify that the above-named insured is a California resident and that the above-named insured is the owner of the property described below and that the above-named insured is the owner of the property described below and that the above-named insured is the owner of the property described below.

I, the undersigned, hereby certify that the above-named insured is a California resident and that the above-named insured is the owner of the property described below and that the above-named insured is the owner of the property described below and that the above-named insured is the owner of the property described below.

I, the undersigned, hereby certify that the above-named insured is a California resident and that the above-named insured is the owner of the property described below and that the above-named insured is the owner of the property described below and that the above-named insured is the owner of the property described below.

Signature

Print Name

Address

City

State

Zip

ALL CALIFORNIA OPERATIONS

3

1.0

\$0

Pat D. O'Farrell

**COMMERCIAL GENERAL LIABILITY
CG 20 01 04 13**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.



EVANSTON INSURANCE COMPANY
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
LIQUOR LIABILITY COVERAGE FORM
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM

SCHEDULE

Additional Premium: \$Included (Check box if fully earned <input type="checkbox"/>)

Please refer to each Coverage Form to determine which terms are defined. Words shown in quotations on this endorsement may or may not be defined in all Coverage Forms.

- A.** Who Is An Insured is amended to include as an additional insured any person or entity to whom you are required by valid written contract or agreement to provide such coverage, but only with respect to "bodily injury", "property damage" (including "bodily injury" and "property damage" included in the "products-completed operations hazard"), and "personal and advertising injury" caused, in whole or in part, by the negligent acts or omissions of the Named Insured and only with respect to any coverage not otherwise excluded in the policy.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. The insurance afforded to such additional insured will not be broader than that which you are required by the valid written contract or agreement to provide for such additional insured.

Our agreement to accept an additional insured provision in a valid written contract or agreement is not an acceptance of any other provisions of such contract or agreement or the contract or agreement in total.

When coverage does not apply for the Named Insured, no coverage or defense will apply for the additional insured.

No coverage applies to such additional insured for injury or damage of any type to any "employee" of the Named Insured or to any obligation of the additional insured to indemnify another because of damages arising out of such injury or damage.

- B.** With respect to the insurance afforded to these additional insured, the following is added to limits of insurance:

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the valid written contract or agreement; or
2. Available under the applicable limits of insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable limits of insurance shown in the Declarations.

All other terms and conditions remain unchanged.

EXHIBIT D**APPROVED FACILITIES***(To be provided by Franchisee and approved by City Manager)*

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
Sunset Environmental Inc. (Waste Management)	-C&D Mix -Trash	16122 Construction Circle E, Irvine, CA 92606	949-654-1562	Click here to enter text.
Ewles Materials	-Clean Concrete -Asphalt	16081 Construction Cir. W, Irvine, CA 92606	714-894-1988	Click here to enter text.
Republic Waste Services (CVT)	-C&D Mix -Trash	2775 E. Gretta Ln. Anaheim, CA 92806	714-238-3344	Click here to enter text.
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EXHIBIT E

Implementation, Outreach and Education Plan

Construction and Demolition Recycling SB 1383 Compliance Guide – City of Irvine



In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

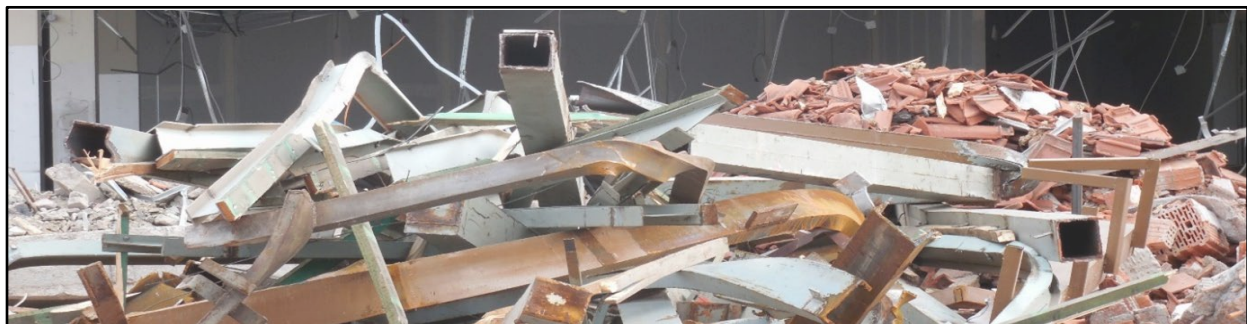
Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Key Disposal & Recycling, Inc.

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles.....	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment.....	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times.....	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities.....	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements.....	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports.....	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE'S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety.....	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers' Compensation Insurance.....	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements.....	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY'S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City's Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review.....	45
17.7	Performance During Reviews	45
17.8	Franchisee's Obligations Upon Termination	45
17.9	City's Remedies Cumulative	46
18	FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City's Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys' Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration.....	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement ("Agreement") is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation ("City") and Key Disposal & Recycling, Inc. ("Franchisee"), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City's Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the "Parties" and individually as a "Party."

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB 939"), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City's Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the "Prior Agreement"), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act ("RCRA" – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA" – 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an "arranger" or a "generator" as those terms are used in CERCLA, and that it is Franchisee, not City, who is "arranging for" the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3 AB 1594. "AB 1594" shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4 AB 1826. "AB 1826" shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5 Animal Waste. "Animal Waste" shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6 Applicable Laws. "Applicable Laws" shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City's Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7 Approved Facility/ies. "Approved Facility" or "Approved Facilities" shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8 Bins. "Bins" shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9 CalRecycle. "CalRecycle" shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq. ("Act"), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10 Cart. "Cart" shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11 City. "City" shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12 City Council. "City Council" shall mean the City Council of the City of Irvine.

2.13 City Indemnities. "City Indemnities" shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14 City Limits. "City Limits" shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15 City Manager. "City Manager" shall mean the City Manager of the City of Irvine or his or her designee.

2.16 Collect/Collection. "Collect" or "Collection" shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17 Collection Vehicles. "Collection Vehicles" shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18 Commercial Customer. "Commercial Customer" shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19 Commercial Premises. "Commercial Premises" shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20 Container. "Container" shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21 County Agreement. "County Agreement" shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22 Customer. "Customer" shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23 Dwelling Unit. "Dwelling Unit" shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24 Effective Date. "Effective Date" shall mean September 1, 2024.

2.25 Environmental Laws. "Environmental Laws" shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26 Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27 Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28 Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29 Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30 Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31 Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32 Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term "Hazardous Contaminant" shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. "Hazardous Substance" shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances," "Hazardous Materials," "Hazardous Wastes," "Toxic Waste," or "Toxic Substances" or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl's ("PCBs"), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. "Hazardous Waste" shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. "Mixed-Use Development" shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term "Mixed-use development" as set forth and defined in City's Municipal Code.

2.36 Multi-Family Dwelling. "Multi-Family Dwelling" shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. "Municipal Code" shall mean City's Municipal Code of Ordinances, including City's Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38 Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39 NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40 Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41 Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42 Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43 Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44 Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45 Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46 Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47 Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49 Solid Waste. "Solid Waste" shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of "Nonhazardous Solid Waste" set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50 Solid Waste Handling Services. "Solid Waste Handling Services" shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51 Special Wastes. "Special Wastes" shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52 SRRE. "SRRE" shall mean City's Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53 Temporary Service. "Temporary Service" shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54 Term. "Term" shall have the meaning ascribed in Section 5 of this Agreement.

2.55 Transformation. "Transformation" shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. "Transformation" does not include composting.

2.56 Village Commercial Premises. "Village Commercial Premises" shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as "Exclusive Village Commercial" on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as "Exclusive Village Commercial" on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 Commercial Edible Food Generator
- 2.58.2 Edible Food
- 2.58.3 Food Recovery
- 2.58.4 Food Recovery Organization
- 2.58.5 Food Recover Service
- 2.58.6 Large Event
- 2.58.7 Large Venue
- 2.58.8 Organic Waste
- 2.58.9 Tier One Commercial Edible Food Generator
- 2.58.10 Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2 Amendments to Scope of Franchise; Planning Area 51

3.2.1 The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2 As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3 As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4 Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 Limitations on Scope of Franchise.

3.4.1 *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 Public Resources Code Section 49523 Acknowledgment.

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 ACCEPTANCE; WAIVER

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee's right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5 TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6 CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE

7.1 Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the "Approved Facilities"). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager's approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee's Collection Vehicles to only utilize such routes, when necessary, in the City Manager's reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 Franchisee's proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4 Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10 Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11 Franchisee's Containers

7.11.1 Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2 Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3 Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4 All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5 Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6 All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7 Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1 Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2 On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3 Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4 If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4 Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1 *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2 *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5 Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1 Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2 Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3 In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4 Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5 Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6 Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6 Precautions Regarding the Collection of Hazardous Materials.

8.6.1 *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2 *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7 Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1 As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2 Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3 At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1 Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2 Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3 Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4 Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5 Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6 Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8 Assistance with Organic Recycling Waivers

8.8.1 Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2 City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3 Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9 Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10 Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 General

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

9.2 Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6 As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7 Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8 Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9 Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10 Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11 Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12 Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13 Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14 Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15 No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16 Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17 Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18 Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19 The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4 Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5 City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6 Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3 the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4 a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5 a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6 a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7 the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8 the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9 the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10 a report of contamination monitoring activities including:

10.4.10.1 the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2 a description of the process used for determining the level of contamination;

10.4.10.3 a summary of actions taken in cases where contamination was identified

10.4.11 a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12 a report of activities related to Edible Food Generators including:

10.4.12.1 the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2 the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 a report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 FRANCHISEE'S CONSIDERATION

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the "SB 1383 Compliance Reimbursement Payment"). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee's "Designated Annual SB 1383 Contribution" shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee's Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee's Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee's Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) Assist City in responding to inquiries from CalRecycle;

(b) Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13 FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14 **RULES AND REGULATIONS OF CITY MANAGER**

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15 **INDEMNIFICATION; LEGAL EXPENSES; BONDS**

15.1 General Indemnification.

15.1.1 Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2 Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material," the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City's authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3 The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2 Hazardous Substances Indemnification.

15.2.1 Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims, (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1 results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2 relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2 Franchisee's obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1 any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2 any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3 any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4 any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3 Additional Indemnification Requirements.

15.3.1 The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2 The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3 With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4 Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5 Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all "owned," "hired" and "non-owned" vehicles, or coverage for "any auto." Such insurance shall be endorsed to:

16.3.1 Name the City and City Personnel as additional insureds for claims arising out of Franchisee's performance of this Agreement.

16.3.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4 Workers' Compensation Insurance.

16.4.1 In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer's right of subrogation against the City and City Personnel with respect to the performance of Franchisee's obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee's completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee's rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5 Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6 Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to "Ongoing Operations"
- (2) Exclude "Contractual Liability"
- (3) Restrict coverage to the "Sole" liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3 In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5 City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6 City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7 Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8 Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1 Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2 Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3 Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4 Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9 City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1 Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2 Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3 Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

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

20.11 Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Key Disposal & Recycling, Inc.
John Katangian
5202 Industry Ave.
Pico Rivera, CA 90660

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:
Jeff Melching
E04AA49F95474A7...
City Attorney

Date: 9/3/2024

Signed by:
Oliver Chi
7809AA719A2B4C7...
By: _____
City Manager

ATTEST:

Date: 9/3/2024

DocuSigned by:
Carl Pate
0FCAD91F02E547D...
By: _____
City Clerk

Date: 8/21/2024

Franchisee Key Disposal & Recycling, Inc.
By: [Signature]
Title: President

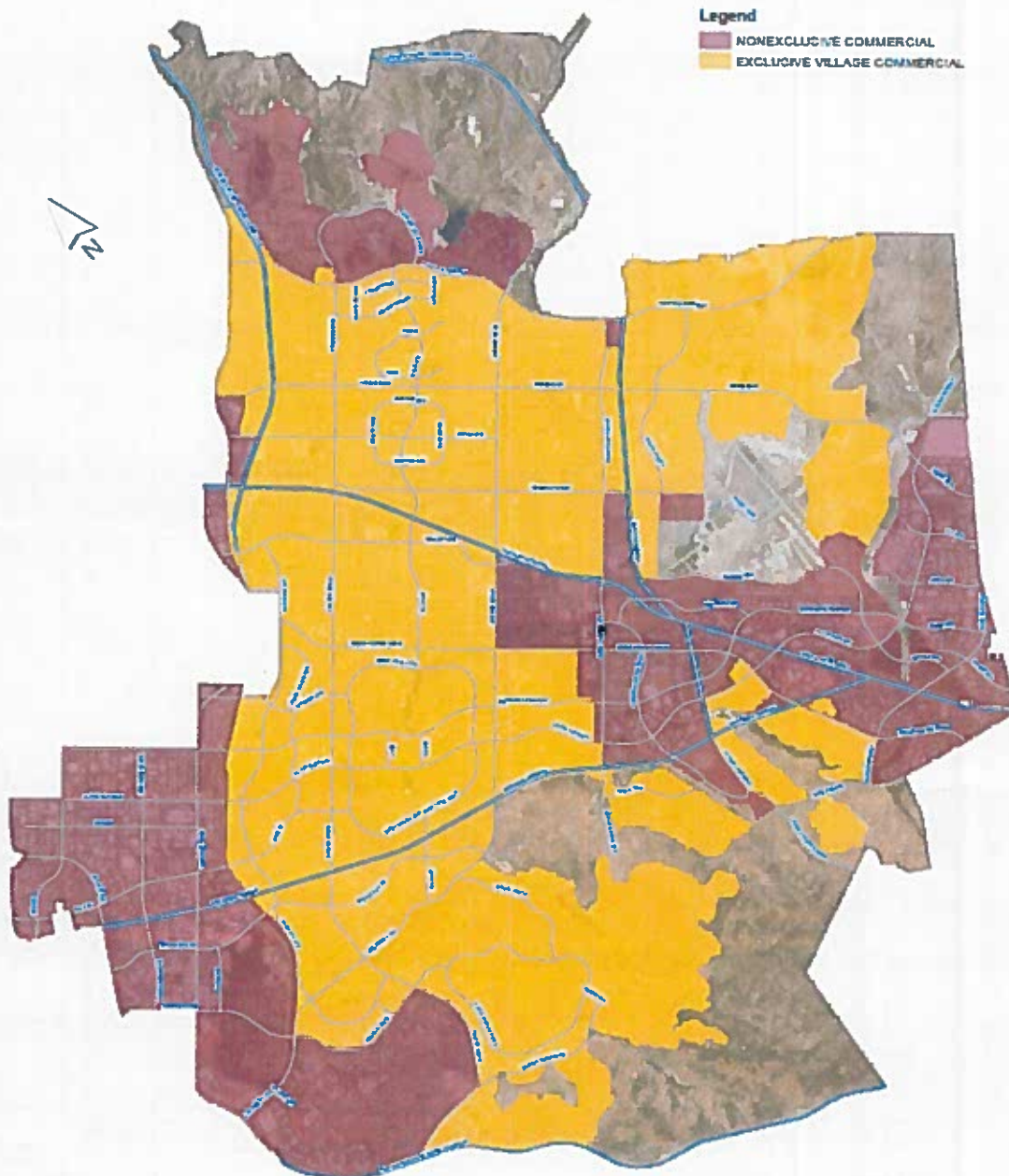
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT A

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C

Workers' Compensation Insurance Certification

Contract Services Description: Solid waste and recycling services

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☐ I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/21/2024
Contracting Firm:	Key Disposal & Recycling, Inc.
Signature:	
Title:	President
Address:	5202 Industry Ave. Pico Rivera, CA 90660



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
8/2/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Arthur J. Gallagher Risk Management Services, LLC
745 Francis Street
San Luis Obispo CA 93401

CONTACT NAME:
PHONE
(A/C No. Ext): 877-730-1222 **FAX**
(A/C No.): 805-545-8224
E-MAIL ADDRESS:

INSURED
Key Disposal & Recycling, LLC
P.O. Box 459
Montebello CA 90640-0459

License# 0069293
KEYDISP-01

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Insurance Company of the West		27847
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES

CERTIFICATE NUMBER: 154536322

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	WLV 5079160 00	7/27/2024	7/27/2025	X PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Evidence of Coverage Only

CERTIFICATE HOLDER

CANCELLATION

City of Irvine

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

R. [Signature]



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/1/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER Arthur J. Gallagher Risk Management Services, LLC 745 Francis Street San Luis Obispo CA 93401	CONTACT NAME: Erin Viker PHONE (A/C, No. Ext): 877-730-1222 FAX (A/C, No.): 805-545-8224 E-MAIL: ADDRESS:														
INSURED Key Disposal & Recycling, LLC P.O. Box 459 Montebello CA 90640-0459	License#: 0069293 KEYDISP-01 <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;">INSURER(S) AFFORDING COVERAGE</th> <th style="width: 20%;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Underwriters at Lloyd's, London</td> <td>32727</td> </tr> <tr> <td>INSURER B: Key Risk Insurance Company</td> <td>10885</td> </tr> <tr> <td>INSURER C: Lloyds of London Syndicate 1919</td> <td></td> </tr> <tr> <td>INSURER D: State Compensation Insurance Fund of CA</td> <td>35076</td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Underwriters at Lloyd's, London	32727	INSURER B: Key Risk Insurance Company	10885	INSURER C: Lloyds of London Syndicate 1919		INSURER D: State Compensation Insurance Fund of CA	35076	INSURER E:		INSURER F:	
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INSURER B: Key Risk Insurance Company	10885														
INSURER C: Lloyds of London Syndicate 1919															
INSURER D: State Compensation Insurance Fund of CA	35076														
INSURER E:															
INSURER F:															

COVERAGES

CERTIFICATE NUMBER: 877435739

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER		CSIEL01114-00	1/28/2024	1/28/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> OTHER		BAP2036803-12	1/28/2024	1/28/2025	COMBINED SINGLE LIMIT (EA accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$		CSIXEL00434-00	1/28/2024	1/28/2025	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y N/A	9256116-23	7/27/2023	7/27/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Evidence of Coverage Only

CERTIFICATE HOLDER

CANCELLATION

City of Irvine 1 Civic Center Plaza Irvine, CA 92606	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

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EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
Universal Waste Systems	MSW/Organics	9016 Norwalk Blvd	800-631-7016	michelle@uwscompany.com
Puente Hills Merf	MSW/Organics	13130 Crossroads Parkway Industry	562-699-7411	Hkharra@lacsdc.org
Downtown Diversion	Recyclables, wood, Tires	2424 East Olympic Blvd Los Angeles, CA	213-612-5002	Click here to enter text.
SA Metals	Metals	1509 S. Bluff Road Montebello, Ca. 90640	323-725-3331	inquiries.SouthGate-Center@sarecycling.com
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

EXHIBIT E
IMPLEMENTATION, OUTREACH AND EDUCATION PLAN
(To be provided by Franchisee and approved by City Manager)



At the moment, our protocols at Key Disposal for complaints are as follows:

A customer calls in to establish a complaint and one of our customer service reps logs the complaint in the customer's account in our database and then works directly with the appropriate department (dispatch, billing etc.) to handle the complaint. Once the issue is resolved a return call is made to the customer to ensure satisfaction. The account is then updated again to close the complaint

Customer Service, Outreach and Education Technical Approach:

While much of the customer service, outreach and education will be done face to face, Key Disposal will also utilize the following strategies:

- **Constant Contact** - Key Disposal will implement an email campaign via Constant Contact to encourage customers to take part in the recycling programs that are offered.
- **Facebook /Twitter/ Instagram** - Key Disposal is in the process of putting up a Facebook Page to encourage traffic to the page for updates on the recycling efforts, current promotions or friendly competitions to get customers engaged and excited about the recycling effort. Twitter and Instagram will be used in this light as well.

Contingency Plan:

Waste that is generated in an emergency can cause health and environmental risks depending on the type of waste and if the emergency has caused a unique circumstance (damage to containers, spills, fallen buildings, etc.). Waste materials that because concern are solvents, paints, pesticides, oil, lead-acid batteries, acid-based cleaners, etc. As a way to prevent leakage of these materials, Key Disposal will provide education at the time of the outreach to remind customers to properly dispose of any of these items if they have them around and do not need them.

Key Disposal will prioritize the cleanup needs based on the materials that pose the most risk to the public. First and foremost, Key Disposal will identify and work with hazardous waste vendors to remove any hazardous waste.



Second, Key Disposal will provide removal services for any waste or debris that might be affecting roadway access for emergency vehicles. At this point, Key Disposal will also identify all municipal solid waste, food waste and any other waste that might undergo decomposition for

removal. At this point, Key Disposal will also remove any spoiled foods that may have been caused due to a breakdown of refrigeration equipment at a customer's location. All precautions will be taken to prevent any spillage of these materials.

Third, Key Disposal will identify and remove all inert waste which includes metal, wood, bricks, asphalt or concrete, plaster, drywall, siding, shingles, insulation, ceramics, plastic and glass.

Household inert waste products include carpet, draperies, upholstered and wooden furniture, mattresses, clothing, bedding, paper, plastic and cardboard. Inert waste is usually the largest amount of waste that results from an emergency situation. When possible, Key Disposal will recycle as much of this material as possible to keep waste removal costs down. Consolidated Fabricators has Emergency Response Bins which Key Disposal will have ready to disperse in the event of an emergency. Each bin is a 3-yard bin that has been specially designed to carry much needed items to secure an environment.

Container Information:

Bins: 1 to 6 cubic yard bins will be available. The most common used are 3- and 4-yard bins, followed by 1- and 2-yard bins.

Roll Off Containers: 10 cubic yard, 20 cubic yard, 30 cubic yard and 40 cubic yard containers will be provided.

Compactors: Key Disposal will have compactors available for lease or to purchase if the customer chooses to do so.

Bin sizes offered for organics collection will be 1 yard, 2-yard, 3 yard or 4-yard bins. Anything larger than a 4-yard bin full of organics would be too heavy for a front loader truck to dump.

Once a request to have a cart, bin or roll off replaced due to damage, graffiti etc., has been received, Key Disposal will complete this task within 24 - 48 hours of receipt of the request. As of now, Key Disposal typically replaces the container the next business day. These services will be done free of charge. Additionally, any service request that is placed for equipment that is



owned by the customer will be done for a fee to the customer. City of Irvine customers will receive free annual bin replacement.

Customers that require a lockable lid for their bins will receive lids with a gravity lock. This will allow the customers to put any kind of lock on the bin they choose and the driver will still be able to empty the bin without the hassle of unlocking it.

Key Disposal and Recycling will have all containers delivered within 30 days of start date of contract.

Customer Service Business Processes and Capabilities

Customer Service hours:

Key Disposal, Inc. shall maintain an office within the City of Pico Rivera. Customer service hours are 8:00 A.M to 4:30 P.M. Monday to Friday.

Commercial hours of collection:

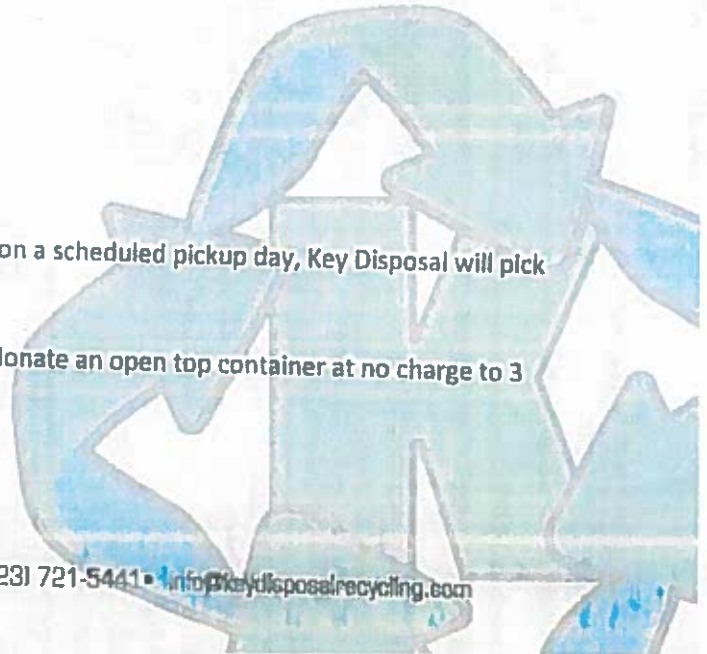
Key Disposal will pick up between the hours of 3:00 A.M to 7:00 P.M., unless otherwise restricted by the city's noise ordinance. Key Disposal will offer service on Sunday upon request by the customer at an additional charge.

The holidays that will be observed are as follows:

- New Year's Day
- 4th of July
- Memorial Day
- Labor Day
- Thanksgiving Day
- Christmas Day

In the event that any holiday listed above falls on a scheduled pickup day, Key Disposal will pick up on the day following that holiday.

Optional Special Cleanups - Key Disposal shall donate an open top container at no charge to 3 annual City sponsored events.





Qualified Personnel:

Key Disposal shall furnish such qualified drivers, mechanical, supervisory, clerical and other personnel as necessary to provide Collection services in an economical, safe and efficient manner. Key Disposal currently staffs 10 full time employees and will make sure that all drivers have a Commercial license of the appropriate class issued by the State of California.

Supervisor Qualification:

Key Disposal shall designate qualified employees as supervisors of field operations. Supervisors will be in the field to handle a myriad of issues from broken equipment, to overflowing bins, etc. They will be available by phone during Key Disposal business hours and non-business hours.

***KEY OPERATIONS / ROUTE CONSOLIDATION PLANS:**

Key will implement the same route consolidation measures in Irvine that it has accomplished in other municipal jurisdictions where it services commercial customers.

Specific Irvine route plans will be included on the Key RFP. "Bundling" includes working with customers to organize their collection schedules to balance collection days and times. Reduces in-city truck miles and hours of operations by combining collection schedules.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

L.A.L. Services, Inc.

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and L.A.L. Services, Inc. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

2.58.1 ☐ Commercial Edible Food Generator

2.58.2 ☐ Edible Food

2.58.3 ☐ Food Recovery

2.58.4 ☐ Food Recovery Organization

2.58.5 ☐ Food Recover Service

2.58.6 ☐ Large Event

2.58.7 ☐ Large Venue

2.58.8 ☐ Organic Waste

2.58.9 ☐ Tier One Commercial Edible Food Generator

2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 ☐ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 ☐ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 ☐ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 ☐ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 ☐ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 ☐ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□a report of contamination monitoring activities including:

10.4.10.1□the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□a description of the process used for determining the level of contamination;

10.4.10.3□a summary of actions taken in cases where contamination was identified

10.4.11□a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□a report of activities related to Edible Food Generators including:

10.4.12.1□the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~The~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~The~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 ☐ Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 ☐ Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2024 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) Assist City in responding to inquiries from CalRecycle;

(b) Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 ☐ Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 ☐ CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 ☐ Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□ any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□ any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□ any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: L.A.L. Services, Inc.
Attention: Office Manager
12932 West St.
Garden Grove, CA 92840

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

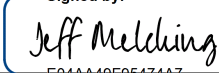
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.


IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:


Signed by:

E04AA40F95474A7...
City Attorney

Date: 9/4/2024

Signed by:

7009AA719A2B407...
By: _____
City Manager

ATTEST:

Date: 9/4/2024

DocuSigned by:

0FCAD91F02E547D...
By: _____
City Clerk

Date: 8/30/24

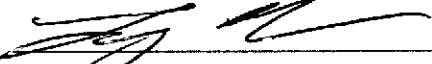
Franchisee L.A.L. Services, Inc.
By: 
Title: President

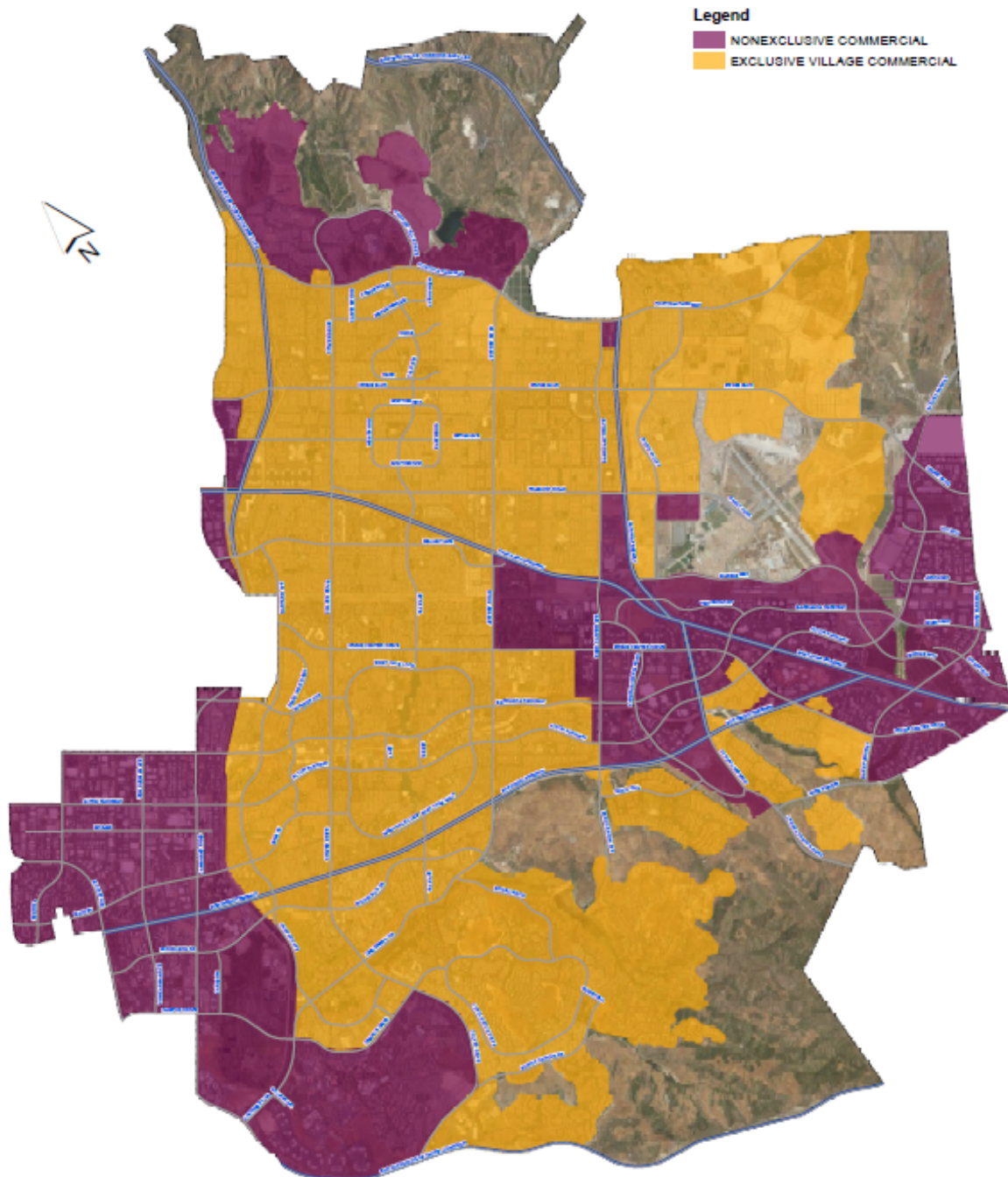
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Non-Exclusive Waste Hauler**WORKERS' COMPENSATION DECLARATION**

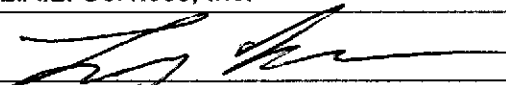
I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/30/24
Contracting Firm:	L.A.L. Services, Inc.
Signature:	
Title:	President
Address:	12932 West St. Garden Grove, CA 92840



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/30/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Sacco & Sacco Insurance Brokers LLC 1831 Iron Point Rd. Suite 100 Folsom CA 95630	CONTACT NAME: Anthony Sacco PHONE (A/C, No, Ext): 916-932-2320 E-MAIL ADDRESS: asacco@saccoins.com	FAX (A/C, No): 916-932-2321
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Landmark American Insurance Co		33138
INSURER B : Tokio Marine Spec In		23850
INSURER C : Trisura Specialty Ins Co.		16188
INSURER D : Clear Blue Insurance Company		28860
INSURER E : Westchester Surplus Lines Ins		10172
INSURER F : COMPWEST INS CO		12177

COVERAGES

CERTIFICATE NUMBER: 1505336738

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	LHA114804	9/3/2024	9/3/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ EXCLUDED PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
D	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	Y	Y	BW03-STR-2400454-00	5/15/2024	5/15/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Comp/Coll Deductible \$ \$500/\$500
B C	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB DED <input type="checkbox"/> RETENTION \$			PUB881463-001 TXS 0002699-00	9/3/2024 9/3/2024	9/3/2025 9/3/2025	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 Each/Aggregate \$ 4000000/4000000
F	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	Y	WCP 100091216	3/14/2024	3/14/2025	<input checked="" type="checkbox"/> PER STATUTE E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	Pollution			G28408468 004	2/19/2024	2/19/2025	Aggregate \$10,000,000 Each Occurrence \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: All operations The City of Irvine Public Works Department is listed as additional insured. Insurance is primary and non-contributory and waiver of subrogation applies when required by written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of Irvine
Public Works Department
P.O. Box 19575
Irvine CA 92623

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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This Endorsement Changes The Policy. Please Read It Carefully.

ADDITIONAL INSURED BLANKET – YOUR WORK

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE	
Name of Person or Organization:	Any person or organization to whom or to which you are obligated by virtue of a written contract or by the issuance or existence of a written permit, to provide insurance such as is afforded by this policy.

SECTION II - WHO IS AN INSURED is amended to include as an additional insured the person(s) or organization(s) shown in the SCHEDULE, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations; and/or “your work” defined for the additional insured(s) designated above included in the “products-completed operations hazard”.

This endorsement effective 9/3/2024
forms part of Policy Number LHA114804
issued to L.A.L. SERVICES, INC.
by Landmark American Insurance Company

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
AMENDMENT – AGGREGATE LIMITS OF INSURANCE
(PER PROJECT)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

The General Aggregate Limit under LIMITS OF INSURANCE (SECTION III) applies separately to each of your projects away from premises owned by or rented to you.

This Endorsement Changes The Policy. Please Read It Carefully.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM**

SCHEDULE

Name of Person or Organization:

Any Person or Organization As Required By Written Contract

The following is added to **SECTION IV – CONDITIONS, 8. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US:**

We waive any right of recovery we may have against the person or organization shown in the SCHEDULE above because of payment we make for injury or damage arising out of your ongoing operations, “your product” or “your work” done under a written contract with that person or organization and included in the “product-completed operations hazard”. This waiver applies only to the person or organization shown in the SCHEDULE above.

This endorsement effective 9/3/2024
forms part of Policy Number LHA114804
issued to L.A.L. SERVICES, INC.
by Landmark American Insurance Company

19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this Policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.
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B. Owned Autos

1. If Symbols **1, 2, 3, 4, 5, 6** or **19** are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire after the policy period begins of the type described for the remainder of the policy period.
2. But, if Symbol **7** is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire after the policy period begins will be a covered "auto" for that coverage only if:
 - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.
3. An "auto" that is leased or rented to you without a driver, under a written agreement for a continuous period of at least six months that requires you to provide primary insurance covering such "auto", will be considered a covered "auto" you own.

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Covered Autos Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Covered Autos Liability Coverage:

1. "Trailers" with a registered Gross Vehicle Weight Rating of 3,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
 - a. Breakdown;

- b. Repair;
- c. Servicing;
- d. "Loss"; or
- e. Destruction.

SECTION II – COVERED AUTOS LIABILITY COVERAGE

A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Covered Autos Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is An Insured

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
 - (1) The owner or anyone else from whom you hire or borrow a covered "auto".

BUSINESS AUTO COVERAGE FORM

Various provisions in this Policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this Policy, the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **V** – Definitions.

SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the Policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the Policy begins.
4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the Policy begins.
5	Owned "Autos" Subject To No-fault	Only those "autos" you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the Policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the Policy begins provided they are subject to the same state uninsured motorists requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
9	Non-owned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs.

This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

- (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
 - (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
 - (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".
 - (5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.
- c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

2. Coverage Extensions

a. Supplementary Payments

We will pay for the "insured":

- (1) All expenses we incur.
- (2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".

- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

b. Out-of-state Coverage Extensions

While a covered "auto" is away from the state where it is licensed, we will:

- (1) Increase the Limit of Insurance for Covered Autos Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or

- b. That the "insured" would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

- a. An "employee" of the "insured" arising out of and in the course of:
 - (1) Employment by the "insured"; or
 - (2) Performing the duties related to the conduct of the "insured's" business; or
- b. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **a.** above.

This exclusion applies:

- (1) Whether the "insured" may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

"Bodily injury" to:

- a. Any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or
- b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph **a.** above.

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or
- b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

9. Operations

"Bodily injury" or "property damage" arising out of the operation of:

- a. Any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment"; or
- b. Machinery or equipment that is on, attached to or part of a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph **a.** or **b.** above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed;
- (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site; or

- (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
- (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

12. War

"Bodily injury" or "property damage" arising directly or indirectly out of:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

14. Unmanned Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance or use of "unmanned aircraft".

C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit Of Insurance for Covered Autos Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

- a. **Comprehensive Coverage**

From any cause except:

- (1) The covered "auto's" collision with another object; or
 - (2) The covered "auto's" overturn.

- b. **Specified Causes Of Loss Coverage**

Caused by:

- (1) Fire, lightning or explosion;
 - (2) Theft;
 - (3) Windstorm, hail or earthquake;
 - (4) Flood;
 - (5) Mischief or vandalism; or
 - (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

- c. **Collision Coverage**

Caused by:

- (1) The covered "auto's" collision with another object; or
 - (2) The covered "auto's" overturn.

2. **Towing And Labor**

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" that is a private passenger type, light truck or medium truck is disabled. However, the labor must be performed at the place of disablement.

3. **Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles**

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
 - b. "Loss" caused by hitting a bird or animal; and
 - c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

4. **Coverage Extensions**

- a. **Transportation Expenses**

We will pay up to \$30 per day, to a maximum of \$900, for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the Policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

- b. **Loss Of Use Expenses**

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicates that Comprehensive Coverage is provided for any covered "auto";
 - (2) Specified Causes of Loss only if the Declarations indicates that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

- (3) Collision only if the Declarations indicates that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$30 per day, to a maximum of \$900.

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard

- (1) The explosion of any weapon employing atomic fission or fusion; or
- (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War Or Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.

3. We will not pay for "loss" due and confined to:
- a. Wear and tear, freezing, mechanical or electrical breakdown.
- b. Blowouts, punctures or other road damage to tires.

This exclusion does not apply to such "loss" resulting from the total theft of a covered "auto".

4. We will not pay for "loss" to any of the following:

- a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
- b. Any device designed or used to detect speed-measuring equipment, such as radar or laser detectors, and any jamming apparatus intended to elude or disrupt speed-measuring equipment.
- c. Any electronic equipment, without regard to whether this equipment is permanently installed, that reproduces, receives or transmits audio, visual or data signals.
- d. Any accessories used with the electronic equipment described in Paragraph c. above.

5. Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- a. Permanently installed in or upon the covered "auto";
- b. Removable from a housing unit which is permanently installed in or upon the covered "auto";
- c. An integral part of the same unit housing any electronic equipment described in Paragraphs a. and b. above; or
- d. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

6. We will not pay for "loss" to a covered "auto" due to "diminution in value".

C. Limits Of Insurance

1. The most we will pay for:

- a. "Loss" to any one covered "auto" is the lesser of:
- (1) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
- (2) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

- b. All electronic equipment that reproduces, receives or transmits audio, visual or data signals in any one "loss" is \$1,000, if, at the time of "loss", such electronic equipment is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- (2) Removable from a permanently installed housing unit as described in Paragraph b.(1) above; or
- (3) An integral part of such equipment as described in Paragraphs b.(1) and b.(2) above.

- 2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".
- 3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations prior to the application of the Limit Of Insurance, provided that:

- 1. The Comprehensive or Specified Causes Of Loss Coverage deductible applies only to "loss" caused by:
 - a. Theft or mischief or vandalism; or
 - b. All perils.
- 2. Regardless of the number of covered "autos" damaged or stolen, the maximum deductible applicable for all "loss" in any one event caused by:
 - a. Theft or mischief or vandalism; or
 - b. All perils,

will be equal to five times the highest deductible applicable to any one covered "auto" on the Policy for Comprehensive or Specified Causes Of Loss Coverage. The application of the highest deductible used to calculate the maximum deductible will be made regardless of which covered "autos" were damaged or stolen in the "loss".

SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this Policy unless there has been full compliance with the following duties:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:
 - (1) How, when and where the "accident" or "loss" occurred;
 - (2) The "insured's" name and address; and
 - (3) To the extent possible, the names and addresses of any injured persons and witnesses.
- b. Additionally, you and any other involved "insured" must:
 - (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
 - (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".

- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".
 - (4) Authorize us to obtain medical records or other pertinent information.
 - (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.
- c. If there is "loss" to a covered "auto" or its equipment, you must also do the following:
- (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.
 - (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
 - (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.
 - (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. Legal Action Against Us

No one may bring a legal action against us under this Coverage Form until:

- a. There has been full compliance with all the terms of this Coverage Form; and
- b. Under Covered Autos Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this Policy to bring us into an action to determine the "insured's" liability.

4. Loss Payment – Physical Damage Coverages

At our option, we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceals or misrepresents a material fact concerning:

- a. This Coverage Form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this Coverage Form.

3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. Other Insurance

a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Covered Autos Liability Coverage this Coverage Form provides for the "trailer" is:

- (1) Excess while it is connected to a motor vehicle you do not own; or

(2) Primary while it is connected to a covered "auto" you own.

- b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".
- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Covered Autos Liability Coverage is primary for any liability assumed under an "insured contract".
- d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. Premium Audit

- a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this Policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.
- b. If this Policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the Policy.

7. Policy Period, Coverage Territory

Under this Coverage Form, we cover "accidents" and "losses" occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the coverage territory.

The coverage territory is:

- (1) The United States of America;
- (2) The territories and possessions of the United States of America;
- (3) Puerto Rico;
- (4) Canada; and

- (5) Anywhere else in the world if a covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less,

provided that the "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada, or in a settlement we agree to.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

8. Two Or More Coverage Forms Or Policies Issued By Us

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us applies to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

SECTION V – DEFINITIONS

A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".

B. "Auto" means:

- 1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or
- 2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

C. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these.

D. "Covered pollution cost or expense" means any cost or expense arising out of:

- 1. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraph 6.b. or 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
 - (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.
- E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".
 - F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
 - G. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.
 - H. "Insured contract" means:
 - 1. A lease of premises;
 - 2. A sidetrack agreement;
 - 3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - 4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - 5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; or

6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

- a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
 - b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
 - c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.
- I. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- J. "Loss" means direct and accidental loss or damage.
- K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- 1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 - 2. Vehicles maintained for use solely on or next to premises you own or rent;
 - 3. Vehicles that travel on crawler treads;
 - 4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;

5. Vehicles not described in Paragraph 1., 2., 3. or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

- a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or
- b. Cherry pickers and similar devices used to raise or lower workers; or

6. Vehicles not described in Paragraph 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- a. Equipment designed primarily for:

- (1) Snow removal;
- (2) Road maintenance, but not construction or resurfacing; or
- (3) Street cleaning;

- b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

- c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well-servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

- L. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

- M. "Property damage" means damage to or loss of use of tangible property.

- N. "Suit" means a civil proceeding in which:

- 1. Damages because of "bodily injury" or "property damage"; or
 - 2. A "covered pollution cost or expense";
- to which this insurance applies, are alleged.

"Suit" includes:

- a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.

O. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

P. "Trailer" includes semitrailer.

Q. "Unmanned aircraft" means an aircraft that is not:

- 1. Designed;
- 2. Manufactured; or
- 3. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

(Ed. 7-09)

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT – CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be \$ 500.

Schedule

Person or Organization**Description**

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective **03/14/2024**
Insured **L.A.L. SERVICES, INC.**

Policy No. **CW WCP 100091216 02**

Endorsement No.
Premium: **\$0**

Insurance Company **COMPWEST INSURANCE
COMPANY**

Countersigned by _____

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

*Ewles materials

16081 Construction Circle Irvine 92606
949.552.6008

* madison materials

1035 East 4th St. Santa Ana 92701
714.664.0159

* Rainbow Disposal

17121 Nichols Huntington Beach 92647
714.847.3581

* Tierre Verde Industries

6900 Marine Way Irvine 92618
949.551.0363

* CVT

1131 Blue Gum Anaheim 92806
714.238.3301

* OC Exchange

1016 E. Katella Ave Anaheim 92805
657.250.3130

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Exhibit E**Implementation, Outreach and Education Plan****Construction and Demolition Recycling
SB 1383 Compliance Guide – City of Irvine**

In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

NASA Services, Inc.

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and NASA Services, Inc. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment.

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 ☐ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 ☐ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 ☐ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 ☐ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 ☐ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 ☐ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~the~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~the~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 ☐ Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 ☐ Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2024 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1 ☐ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4 ☐ Workers’ Compensation Insurance.

16.4.1 ☐ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5 ☐ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6 ☐ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: NASA Services, Inc.
Attention: Manager
1100 S. Maple Ave.
Montebello, CA 90640

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

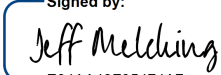
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

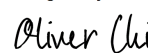
IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

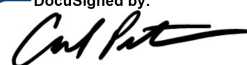
Signed by:

E04AA49F05474A7...
City Attorney

Date: 8/30/2024

Signed by:

7809AA719A2B4C7...
By: City Manager

ATTEST:

Date: 8/30/2024

DocuSigned by:

0FCAD01F02E647D...
By: City Clerk

Date: 8/29/2024

Franchisee NASA Services, Inc.

By: CEO
Title: CEO

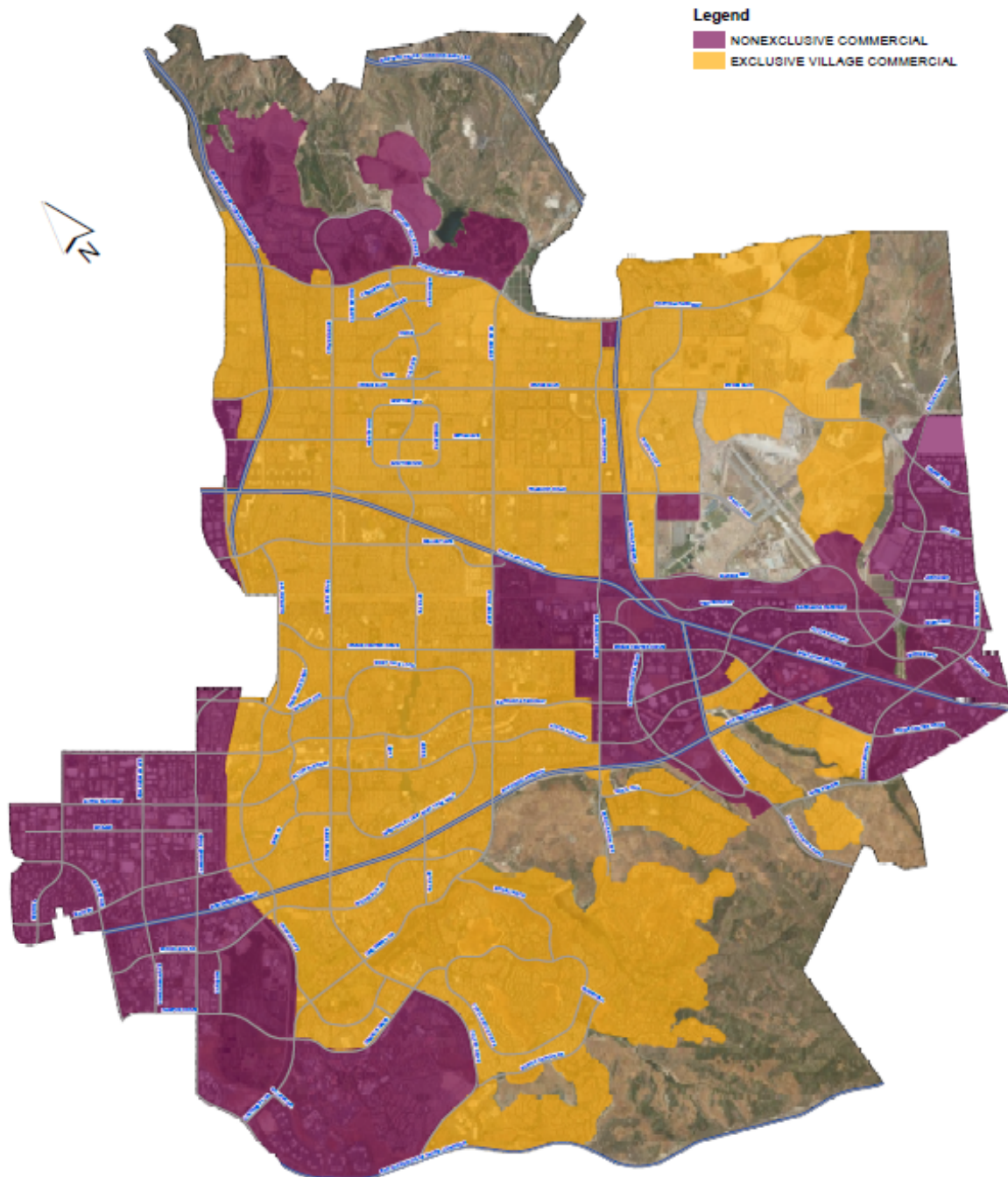
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Non-Exclusive Commercial Hauler**WORKERS' COMPENSATION DECLARATION**


I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/28/24
Contracting Firm:	NASA Services, Inc.
Signature:	
Title:	CEO
Address:	1100 S. Maple Ave. Montebello, CA 90640



NASAS-1

OP ID: JZ

CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 11/20/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Oppenheim Insurance Brokers PO BOX 220957 NEWHALL, CA 91322 Jim Oppenheim	CONTACT NAME: Jim Oppenheim PHONE (A/C, No, Ext): 818-833-8784 FAX (A/C, No): 818-833-8734 E-MAIL ADDRESS: 														
INSURED NASA Services Inc. 1100 South Maple Ave Montebello, CA 90640	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A : Cypress Insurance Company</td> <td style="text-align: center;">10855</td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Cypress Insurance Company	10855	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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INSURER C :															
INSURER D :															
INSURER E :															
INSURER F :															

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	X NAWC417034	12/01/2023	12/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Proof of Insurance *30 day notice of cancellation except for non payment of premium 10 days. Re: Job Site

CERTIFICATE HOLDER
CANCELLATION

**City of Irvine, its Employees,
agents, officials & volunteers
Public Works Dept.
PO Box 19575
Irvine, CA 92623**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/29/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, LLC 745 Francis Street San Luis Obispo CA 93401	CONTACT NAME: Erin Viker PHONE (A/C, No, Ext): 877-730-1222 FAX (A/C, No): 805-545-8224 E-MAIL ADDRESS:
INSURED NASA Services, Inc. P.O. Box 1755 Montebello CA 90640-7755	License#: 0D69293 NASASER-02

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Key Risk Insurance Company	10885
INSURER B : Nautilus Insurance Company	17370
INSURER C : StarStone Specialty Insurance Company	44776
INSURER D :	
INSURER E :	
INSURER F :	

COVERAGES**CERTIFICATE NUMBER: 1587423244****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <div style="margin-left: 20px;"> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: </div>	Y	Y	GLP2041021-11	8/1/2024	8/1/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Pollution Liability \$ 1,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY </div>	Y	Y	BAP2041020-11	8/1/2024	8/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			FFX2044294-10	8/1/2024	8/1/2025	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is named as additional insured with respects to general liability & pollution liability per attached ECP10040816 and auto liability per BENV CA 06 09 17. Waiver of subrogation applies per attached ENV20040618 and CA04441013. Coverage is primary and noncontributory per ECP10040816 and CA04491116

Additional Insured: City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers

CERTIFICATE HOLDER**CANCELLATION**

City of Irvine
 P.O. Box 19575
 Irvine CA 92623

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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BAP2041020-11

COMMERCIAL AUTO
CA 04 49 11 16

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A.** The following is added to the **Other Insurance Condition** in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

- B.** The following is added to the **Other Insurance Condition** in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

POLICY NUMBER: BAP2041020-11

COMMERCIAL AUTO
CA 04 44 10 13

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Bockmann Inc. Endorsement Effective Date: 12/31/2023
--

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

Any Principal wherein such waiver has been included before loss as part of a contractual undertaking by the Named Insured

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.
--

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

GLP2041021-11

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

WAIVER OF SUBROGATION

It is agreed that the Company, in the event of any payment under this policy, waives its right of recovery against any Principal, but only at the specific written request of the Named Insured either before or after loss, wherein such waiver has been included before loss as part of a contractual undertaking by the Named Insured.

This waiver shall apply only with respect to losses occurring due to operations undertaken as per the specific contract existing between the Named Insured and such Principal and shall not be construed to be a waiver with respect to other operations of such Principal in which the Named Insured has no contractual interest.

No waiver of subrogation shall directly or indirectly apply to any employee, employees or agents of either the Named Insured or of the Principal, and the Company reserves its right or lien to be reimbursed from any recovery funds obtained by any injured employee.

This waiver does not apply in any jurisdiction or situation where such waiver is held to be illegal or against public policy or in any situation wherein the Principal against whom subrogation is to be waived is found to be solely negligent.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

BAP2041020-11

BENV CA 06 09 17

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

**BUSINESS AUTO – ADDITIONAL INSURED
WHEN REQUIRED BY CONTRACT OR AGREEMENT**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section II - Liability Coverage A. - Coverage, 1. Who is an Insured, is amended to add:

- d. Any person or organization to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into, excluding contracts or agreements for professional services, which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you. However, the insurance provided will not exceed the lesser of:
1. The coverage and/or limits of this policy; or
 2. The coverage and/or limits required by said contract or agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

ADDITIONAL INSURED – BLANKET

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

In consideration of the premium charged and notwithstanding anything contained in this policy to the contrary, it is hereby agreed and understood that this endorsement shall apply only to the Coverage Part(s) corresponding with the box or boxes marked below.

☒ **COVERAGES PARTS A AND B – GENERAL LIABILITY**

☒ **COVERAGE D – CONTRACTORS POLLUTION LIABILITY**

SECTION III – WHO IS AN INSURED is amended to include as an insured, with respect to Coverage **A, B** and **D**, any person(s) or organization(s) when you and such person(s) or organization(s) have agreed in a written contract or written agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such written contract or written agreement must be in effect prior to the performance of **your work** which is the subject of such written contract or written agreement.

Such additional insured status applies only:

1. Under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY** for claims or **suits** resulting from:
 - a. **Your work** performed for such person(s) or organization(s) in the performance of your ongoing operations for the additional insured; or
 - b. **Your work** performed for such person(s) or organizations(s) and included in the **products-completed operations hazard**.
2. Under **COVERAGE D CONTRACTORS POLLUTION LIABILITY** for claims or **suits** arising out of **pollution conditions** that are the result of:
 - a. **Your work** performed for such person(s) or organization(s) in the performance of your ongoing operations for the additional insured; or
 - b. **Your work** performed for such person(s) or organizations(s) and included in the **products-completed operations hazard**.

With respect to damages caused by **your work**, as described above, the coverage provided hereunder shall be primary and not contributing with any other insurance available to those person(s) or organization(s) with which you have so agreed in a written contract or written agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
Puente Hills Material Recovery Facility	Solid Waste, recyclables, and organics	13130 Crossroads Parkway, South, City of Industry, CA 91746	(562) 908-4288	NA
Direct Disposal	Construction Debris	3720 Noakes St Los Angeles, CA 90023	(888) 551-7797	NA

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Exhibit E**Implementation, Outreach and Education Plan****Construction and Demolition Recycling
SB 1383 Compliance Guide – City of Irvine**

In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Pacific Line Cleanup, Inc.

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee’s Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE’S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE’S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and Pacific Line Cleanup, Inc. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment.

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 a report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Pacific Line Cleanup, Inc
27601 Forbes Road #29
Laguna Niguel, CA 92677

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice


of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.


CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F96474A7...

City Attorney

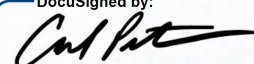
Date: 9/3/2024

Signed by:

7809AA719A2B4C7...

City Manager

ATTEST:

Date: 9/3/2024

DocuSigned by:

0FCAD91F02E547D...

City Clerk

Date: _____

Franchisee Pacific Line Cleanup, Inc.

By:  _____

Title: President

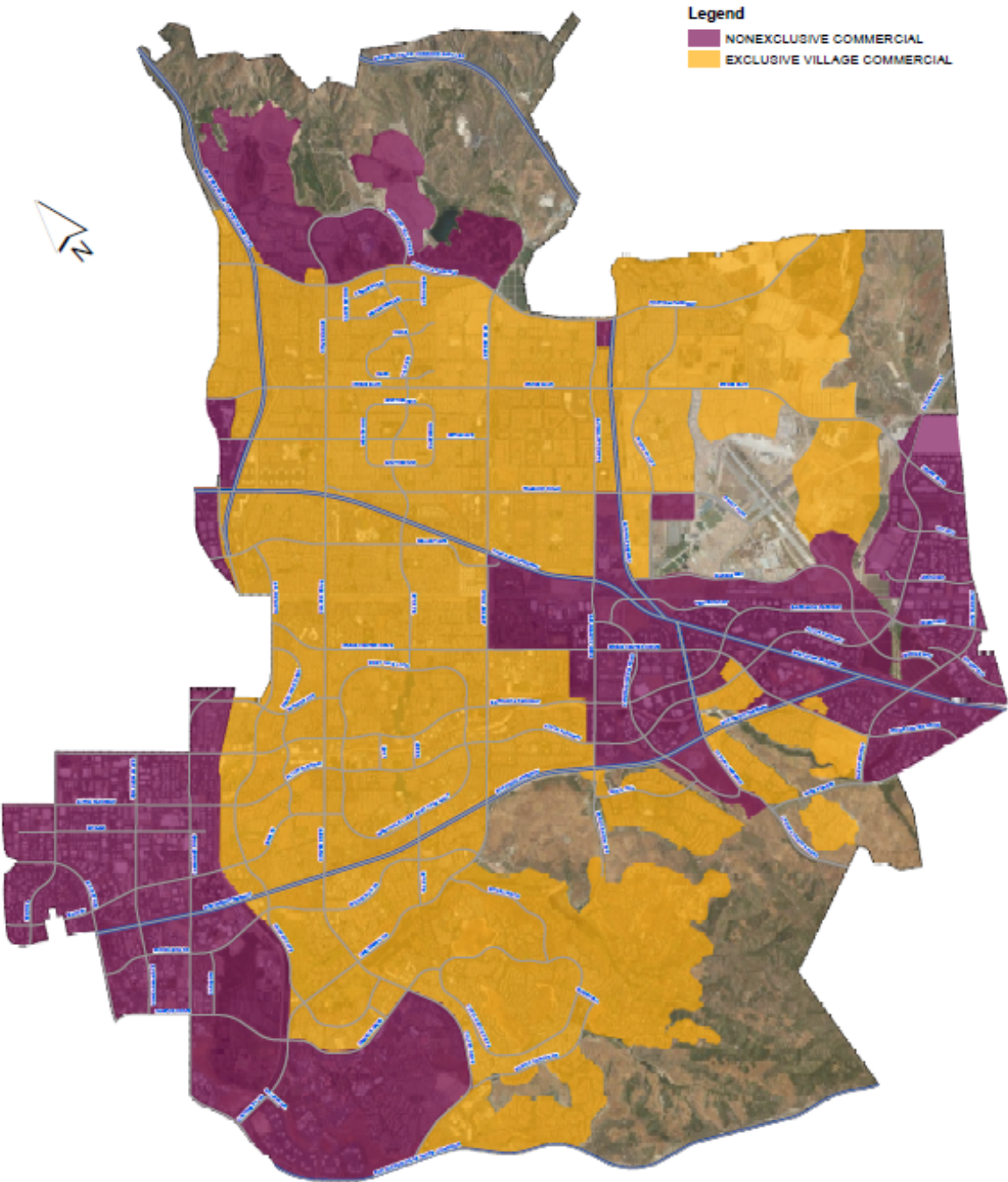
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Construction Clean Up**WORKERS' COMPENSATION DECLARATION**


I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/26/2024
Contracting Firm:	Pacific Line Cleanup, Inc.
Signature:	
Title:	President
Address:	27601 Forbes Road # 29, Laguna Niguel, CA 92677



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/8/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
EHM Insurance Brokers
917 7th Street
Sacramento CA 95814

CONTACT NAME: EHM Insurance Brokers

PHONE (A/C, No, Ext): (916) 957-1504

FAX (A/C, No):

E-MAIL ADDRESS: trevor@ehmbroker.com

License#: 6009017
PACILIN-01

INSURED
Pacific Line Clean-up, Inc
PO Box 7765
Laguna Niguel CA 92607-7765

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A : Key Risk Insurance Company

10885

INSURER B : Lexington Ins. Co.

19437

INSURER C : CompWest Ins. Co.

12177

INSURER D :

INSURER E :

INSURER F :

COVERAGES

CERTIFICATE NUMBER: 1268487212

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			019809339-00	7/1/2024	7/1/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Per Proj. Aggregate \$ 5,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BAP2044016-10	7/1/2024	7/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			071732090-00	7/1/2024	7/1/2025	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	CW WCP 100116687-02	7/1/2024	7/1/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is named as additional insured. Policy is Primary and Non-Contributory. Waiver of Subrogation and primary wording apply. Additional Insured GL Endorsement contains Completed and On-Going Ops.

The City of Irvine Public Works Department is named as additional insured Policy is primary & non-contributing
All operations of the insured

CERTIFICATE HOLDER

CANCELLATION

The City of Irvine
Public Works Department
P.O. Box 19575
Irvine CA 92623

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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POLICY NUMBER: BAP2044016-10

COMMERCIAL AUTO
CA 04 44 10 13**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:	Pacific Line Clean-Up, Inc.
Endorsement Effective Date:	07/01/24

SCHEDULE**Name(s) Of Person(s) Or Organization(s):**

Any Principal wherein such waiver has been included before loss as part of a contractual undertaking by the Named Insured

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The Transfer Of Rights Of Recovery Against Others To Us condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
GRIFFITH COMPANY	CONCRETE, PLASTER	11501 JEFFREY RD, IRVINE, CA	714-984-5500	mail@griffithcompany.net
TIERRA VERDE INDUSTRIES	WOOD	8065 MARINE WAY, IRVINE, CA	949-551-0363	alec@tierraverdeind.com
COUNTY OF ORANGE FRANK R. BOWERMAN	SOLID WASTE	11002 BEE CANYON ACCESS RD, IRVINE, CA	949-551-7100	info@ocwr.ocgov.com
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Exhibit E**Implementation, Outreach and Education Plan****Construction and Demolition Recycling
SB 1383 Compliance Guide – City of Irvine**

In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

PATRIOT SERVICES INC.

EFFECTIVE DATE:

09/01/2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3 Actions for Damages.....46

19 ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS
AND LIMITATIONS46

20 GENERAL PROVISIONS47

20.1 Force Majeure47

20.2 Property Damage47

20.3 Pavement Damage47

20.4 Right of Entry47

20.5 City’s Authorized Agent47

20.6 Amendments48

20.7 Independent Contractor.....48

20.8 Law to Govern; Venue.....48

20.9 Joint Drafting48

20.10 Section Headings48

20.11 Successors and Assigns.....48

20.12 Waiver48

20.13 Notices49

20.14 Severability49

20.15 Exhibits Incorporated.....49

20.16 Attorneys’ Fees and Litigation Costs.....49

20.17 Corporate Resolution49

20.18 Integration49

20.19 Compliance with Law50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and PATRIOT SERVICES INC. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

2.58.1 ☐ Commercial Edible Food Generator

2.58.2 ☐ Edible Food

2.58.3 ☐ Food Recovery

2.58.4 ☐ Food Recovery Organization

2.58.5 ☐ Food Recover Service

2.58.6 ☐ Large Event

2.58.7 ☐ Large Venue

2.58.8 ☐ Organic Waste

2.58.9 ☐ Tier One Commercial Edible Food Generator

2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3 **NON-EXCLUSIVE FRANCHISE**

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 ☐ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 ☐ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 ☐ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 ☐ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 ☐ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 ☐ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1□ Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2□ Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3□ Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~the~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~the~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ **Force Majeure.** Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ **Property Damage.** Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ **Pavement Damage.** Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ **Right of Entry.** Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ **City's Authorized Agent.** Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: PATRIOT SERVICES INC.
ATTN: VARTAN KEUROGHIAN
P.O BOX 145
MONTEBELLO, CA 90640

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:
Jeff Melching
E04AA49F95474A7...
City Attorney

Date: 8/30/2024

Signed by:
Oliver Chi
7809AA719A2B4C7...
City Manager

ATTEST:

Date: 8/30/2024

DocuSigned by:
Carl Pate
0ECAD91F02E547D...
City Clerk

Date: 8/26/2024

Franchisee
By: Vartan Keneghian
Title: GENERAL MANAGER

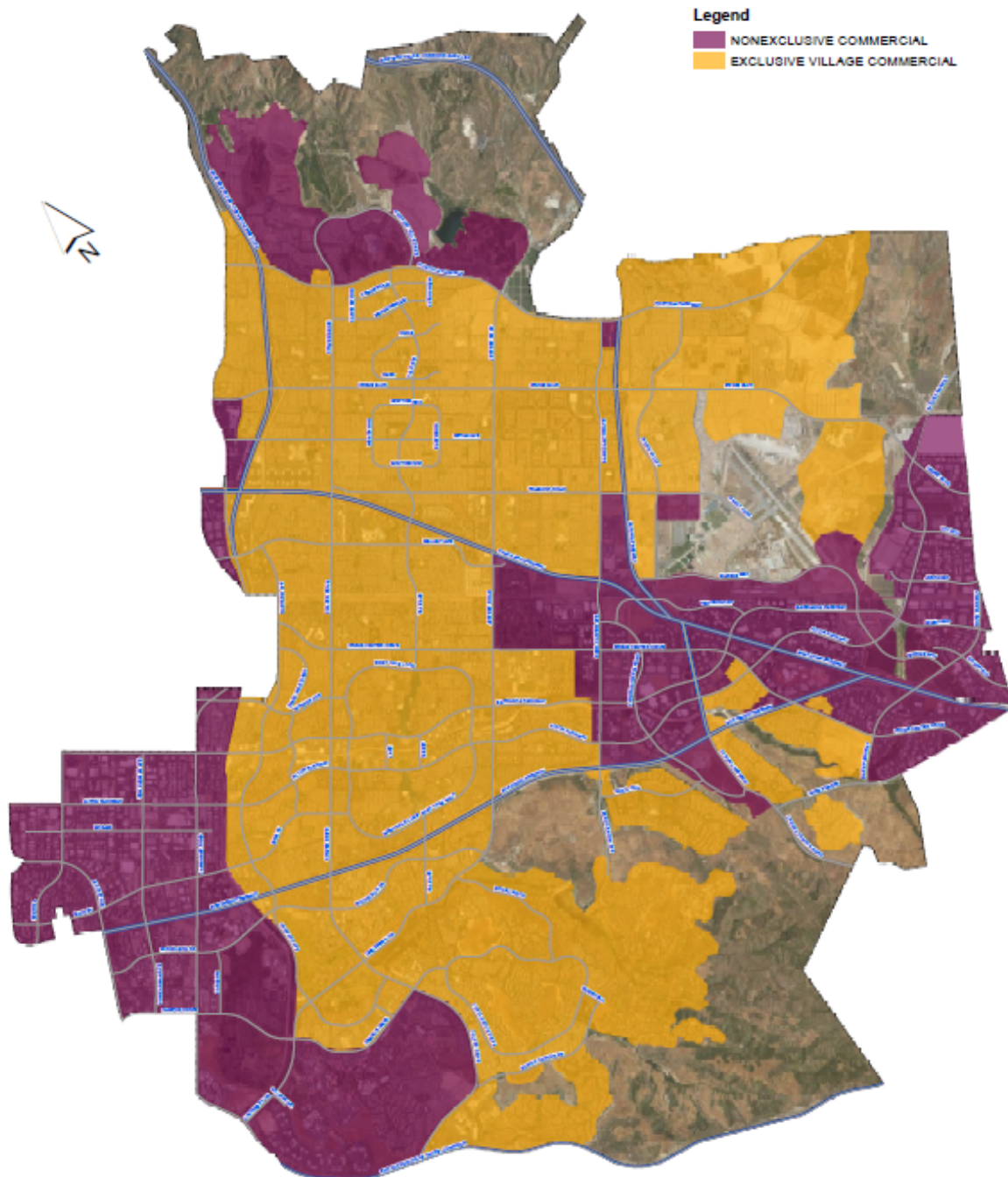
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Construction & Demolition**WORKERS' COMPENSATION DECLARATION**

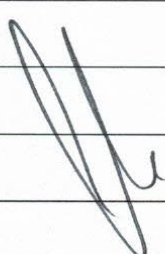
I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/26/2024
Contracting Firm:	PATRIOT SERVICES INC
Signature:	
Title:	GENERAL MANAGER
Address:	P.O BOX 145, MONTEBELLO, CA 90640

the NAIC's International Insurers Department (IID) listing of approved nonadmitted non-United States insurers. Ask your agent, broker, or "surplus line" broker to obtain more information about that insurer.

7. California maintains a "List of Approved Surplus Line Insurers (LASLI)." Ask your agent or broker if the insurer is on that list, or view that list at the internet website of the California Department of Insurance: www.insurance.ca.gov/01-consumers/120-company/07-lasli/lasli.cfm.

8. If you, as the applicant, required that the insurance policy you have purchased be effective immediately, either because existing coverage was going to lapse within two business days or because you were required to have coverage within two business days, and you did not receive this disclosure form and a request for your signature until after coverage became effective, you have the right to cancel this policy within five days of receiving this disclosure. If you cancel coverage, the premium will be prorated and any broker's fee charged for this insurance will be returned to you.



Policy Certificate

This Insurance is effected through the Coverholder:

Canopy Specialty Insurance LLC
1101 Laurel Oak Road
Suite 110
Voorhees, NJ 08043

This notice contains important information. Please read it carefully.

This Policy is issued in accordance with the authorization granted to Canopy Specialty Insurance LLC.

The Insured is requested to read this Policy carefully, and if it is not correct, return it immediately to Canopy's address noted at the top of this page.

All inquiries regarding this Policy should be addressed to your Insurance Agent or Producing Agent, or to Canopy Specialty Insurance.

This Certificate has been signed by:

Ben Tweedie

(Authorized Representative)



NOTICE:

- 1. THE INSURANCE POLICY THAT YOU HAVE PURCHASED IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED “NONADMITTED” OR “SURPLUS LINE” INSURERS.**
- 2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT WHICH APPLIES TO CALIFORNIA LICENSED INSURERS.**
- 3. THE INSURER DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.**
- 4. CALIFORNIA MAINTAINS A LIST OF ELIGIBLE SURPLUS LINE INSURERS APPROVED BY THE INSURANCE COMMISSIONER. ASK YOUR AGENT OR BROKER IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST AT THE WEB SITE OF THE CALIFORNIA DEPARTMENT OF INSURANCE: WWW.INSURANCE.CA.GOV.**
- 5. FOR ADDITIONAL INFORMATION ABOUT THE INSURER YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR “SURPLUS LINE” BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE, AT THE FOLLOWING TOLL-FREE TELEPHONE NUMBER: 1-800-927-4357.**
- 6. IF YOU, AS THE APPLICANT, REQUIRED THAT THE INSURANCE POLICY YOU HAVE PURCHASED BE BOUND IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE WITHIN TWO BUSINESS DAYS, AND YOU DID NOT RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS POLICY WITHIN FIVE DAYS OF RECEIVING THIS DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM WILL BE PRORATED AND ANY BROKER FEE CHARGED FOR THIS INSURANCE WILL BE RETURNED TO YOU.**

CERTIFICATE PROVISIONS

1. **Signature Required.** This Certificate shall not be valid unless signed by the Correspondent on the attached Declaration Page.
2. **Correspondent Not Insurer.** The Correspondent is not an Insurer hereunder and neither is nor shall be liable for any loss or claim whatsoever. The Insurers hereunder are those Underwriters at Lloyd's, London whose syndicate numbers can be ascertained as hereinbefore set forth. As used in this Certificate "Underwriters" shall be deemed to include incorporated as well as unincorporated persons or entities that are Underwriters at Lloyd's, London.
3. **Cancellation.** If this Certificate provides for cancellation and this Certificate is cancelled after the inception date, earned premium must be paid for the time the insurance has been in force.
4. **Service of Suit.** It is agreed that in the event of the failure of Underwriters to pay any amount claimed to be due hereunder, Underwriters, at the request of the Assured, will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States. It is further agreed that service of process in such suit may be made upon the firm or person named in item 6 of the attached Declaration Page, and that in any suit instituted against any one of them upon this contract, Underwriters will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of Underwriters in any such suit and/or upon request of the Assured to give a written undertaking to the Assured that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, Underwriters hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Assured or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the above-mentioned as the person to whom the said officer is authorized to mail such process or a true copy thereof.
5. **Assignment.** This Certificate shall not be assigned either in whole or in part without the written consent of the Correspondent endorsed hereon.
6. **Attached Conditions Incorporated.** This Certificate is made and accepted subject to all the provisions, conditions and warranties set forth herein, attached or endorsed, all of which are to be considered as incorporated herein.
7. **Short Rate Cancellation.** If the attached provisions provide for cancellation, the table below will be used to calculate the short rate proportion of the premium when applicable under the terms of cancellation.

Short Rate Cancellation Table For Term of One Year.

Days Insurance in Force	Per Cent of one year Premium	Days Insurance in Force	Per Cent of one year Premium	Days Insurance in Force	Per Cent of one year Premium	Days Insurance in Force	Per Cent of one year Premium
1	5%	66 - 69.....	29%	154 - 156.....	53%	256 - 260	77%
2	6	70 - 73.....	30	157 - 160.....	54	261 - 264	78
3 - 4	7	74 - 76.....	31	161 - 164.....	55	265 - 269	79
5 - 6	8	77 - 80.....	32	165 - 167.....	56	270 - 273 (9 mos).....	80
7 - 8	9	81 - 83.....	33	168 - 171.....	57	274 - 278	81
9 - 10.....	10	84 - 87.....	34	172 - 175.....	58	279 - 282	82
11 - 12.....	11	88 - 91 (3 mos)	35	176 - 178.....	59	283 - 287	83
13 - 14.....	12	92 - 94.....	36	179 - 182 (6 mos).....	60	288 - 291	84
15 - 16.....	13	95 - 98.....	37	183 - 187.....	61	292 - 296	85
17 - 18.....	14	99 - 102.....	38	188 - 191.....	62	297 - 301	86
19 - 20.....	15	103 - 105.....	39	192 - 196.....	63	302 - 305 (10 mos)	87
21 - 22.....	16	106 - 109.....	40	197 - 200.....	64	306 - 310	88
23 - 25.....	17	110 - 113.....	41	201 - 205.....	65	311 - 314	89
26 - 29.....	18	114 - 116.....	42	206 - 209.....	66	315 - 319	90
30 - 32 (1 mos)	19	117 - 120.....	43	210 - 214 (7 mos).....	67	320 - 323	91
33 - 36.....	20	121 - 124 (4 mos).....	44	215 - 218.....	68	324 - 328	92
37 - 40.....	21	125 - 127.....	45	219 - 223.....	69	329 - 332	93
41 - 43.....	22	128 - 131.....	46	224 - 228.....	70	333 - 337 (11 mos)	94
44 - 47.....	23	132 - 135.....	47	229 - 232.....	71	338 - 342	95
48 - 51.....	24	136 - 138.....	48	233 - 237.....	72	343 - 346	96
52 - 54.....	25	139 - 142.....	49	238 - 241.....	73	347 - 351	97
55 - 58.....	26	143 - 146.....	50	242 - 246 (8 mos).....	74	352 - 355	98
59 - 62 (2 mos)	27	147 - 149.....	51	247 - 250.....	75	356 - 360	99
63 - 65.....	28	150 - 153 (5 mos).....	52	251 - 255.....	76	361 - 365 (12 mos).....	100

Rules applicable to insurance with terms less than or more than one year:

- A. If insurance has been in force for one year or less, apply the short rate table for annual insurance to the full annual premium determined as for insurance written for a term of one year.
- B. If insurance has been in force for more than one year:

1. Determine full annual premium as for insurance written for a term of one year.

2. Deduct such premium from the full insurance premium, and on the remainder calculate the pro rata earned premium on the basis of the ratio of the length of time beyond one year the insurance has been in force to the length of time beyond one year for which the policy was originally written.

3. Add premium produced in accordance with items (1) and (2) to obtain earned premium during full period insurance has been in force.

**DECLARATION PAGE FOR LLOYD'S OF LONDON
ENVIRONMENTAL AND RESTORATION POLICY
Commercial General Liability - Occurrence Form
Contractors Pollution Liability - Occurrence Form
Transportation Pollution Liability - Occurrence Form**

PLEASE READ THE ENTIRE FORM CAREFULLY

UNIQUE MARKET REFERENCE: B1776BL204400P

POLICY NO: CSIEL01148-00

Item 1. NAMED INSURED: Patriot Services, Inc. DBA A&A Waste and Recycling DBA A&A Roll-off and Waste

MAILING ADDRESS: 3041 Vain Ave, Commerce, CA 90040

Item 2. POLICY PERIOD:

From Inception: 2/10/2024
To Expiration: 2/10/2025
(12:01 a.m. standard time at the Mailing Address)

Item 3. LIMIT OF LIABILITY:

Policy Aggregate Limit for All Claims and Damages \$2,000,000

Commercial General Liability

Each Occurrence:	\$1,000,000
General Aggregate:	\$2,000,000
Products-Completed Operations Aggregate:	\$2,000,000
Personal and Advertising Injury:	\$1,000,000
Medical Expense:	\$10,000
Damage to Premises Rented to You:	\$100,000

Contractors Pollution Liability

Each Claim:	\$1,000,000
Aggregate:	\$2,000,000

Transportation Pollution Liability

Each Claim:	\$1,000,000
Aggregate:	\$2,000,000

Item 4. DEDUCTIBLE:

Deductible	
Commercial General Liability:	\$5,000
Contractors Pollution Liability:	\$10,000
Transportation Pollution Liability:	\$10,000

Item 5. PREMIUM: \$ 7,860.00

Surplus Lines Tax: \$246.30

Stamping Fee: \$14.78

Item 6. POLICY FEE: \$350

Taxable Fees: \$350.00

Item 7. MINIMUM EARNED PREMIUM: 25% of Item 5 above

Item 8. EXTENDED DISCOVERY PERIOD: Refer to Extended Reporting Period of the Policy

SERVICE OF SUIT: See Services of Suit Form – NMA1998

**NOTICE OF INSURED'S CANCELLATION AND/OR
NOTICE OF INSURED'S INTENTION TO PURCHASE
EXTENDED REPORTING PERIOD COVERAGE:**

UCPM, LLC
3345 S. Val Vista Dr Suite 300
Gilbert, AZ 85297

endorsements@ucpm.com

NOTICE OF CLAIM TO:

UCPM CLAIMS ADVOCACY IS READY TO
HELP. PLEASE COPY claims@ucpm.com
ON ALL CLAIMS SUBMISSIONS AND
OTHER CORRESPONDENCE.

Network Adjusters Inc

Stanford Place I
8055 East Tufts Avenue, Suite 600
Denver, CO 80237
Tel 877-533-1211

networknewloss@networkadjusters.com

mmalany@networkadjusters.com

jmayer@networkadjusters.com

FORMS AND ENDORSEMENTS ATTACHED AT INCEPTION: See Schedule of Forms and Endorsements

**THESE DECLARATIONS TOGETHER WITH THE APPLICATION, FORMS AND
ENDORSEMENTS ISSUED TO FORM A PART THEREOF, COMPLETE, THE ABOVE
NUMBERED POLICY.**

Countersigned:	5/22/2024	By: <i>Ben Tweedie</i>
	(Date)	(Authorized Representative)

SCHEDULE OF FORMS

Name Insured: Patriot Services, Inc. DBA A&A Waste and Recycling DBA A&A Roll-off and Waste

Policy No: CSIEL01148-00

The following Form(s) and Endorsement(s) are made a part of this policy at time of issue.

Form Name	Form Edition No
Cover Letter	CSIP Cover Letter
D-2 form	D-2 form
SLC3 USA	SLC3 USA
Environmental Liability Declarations Page	CSI EL 000 0001 Dec
Schedule of Forms	FormSched
Schedule of Participating Underwriters	CSI EL - Sch of UW EL 07 01 23
Commercial General Liability Coverage Form (Occurrence) - GL	CG 00 01 04 13
Contractors Pollution Liability Occurrence Coverage Form	CSI EL 000 0001
Transportation Pollution Liability Coverage Form	CSI EL 000 0003
Common Policy Conditions Endorsement	CSI EL 000 0006
Minimum Earned Premium Endorsement	CSI EL 000 0007
Policy Aggregate Limit Endorsement	CSI EL 000 0008
Primary & Non-Contributory Endorsement	CSI EL 000 0013
Waiver of Subrogation	CSI EL 000 0017
Sanction Limitation and Exclusion Clause	LMA3100
USA Policyholders Complaints Handling Procedures	LMA5268
TRIA Declined	LMA5390
Cyber and Data Exclusion	LMA5532
Lloyd's Privacy Policy Statement	LSW1135b
Nuclear Incident Exclusion Clause	NMA1256
Cancellation Clause	NMA1331
Service of Suit	NMA1998
War and Terrorism Exclusion	NMA2918
GL All Work in the State of New York Exclusion Endorsement	CSI EL 000 0070
Deductible Liability Insurance	CG 03 00 01 96
Employee Benefits Liability Coverage	CG 04 35 12 07
Primary & Non-Contributory	CG 20 01 04 13
Additional Insured – Owners, Lessees or Contractors	CG 20 10 07 04
Additional Insured – Completed Ops	CG 20 37 07 04
Waiver of Transfer or Right of Recovery	CG 24 04 10 93
CPL Microbial Conditions Extension Endorsement	CSI EL 000 0019
CPL Additional Insured - Blanket Endorsement	CSI EL 000 0034
CPL Non-Owned Disposal Site Endorsement	CSI EL 000 0036
CPL Additional Insured Completed Operations - PuroClean Endorsement	CSI EL 000 0094
CPL Claim Expense in Addition to Limit (Capped) Endorsement	CSI EL 000 0077
PL Claims Expense Additional Limit Endorsement	CSI EL 000 0044

Named Insured: Patriot Services, Inc. DBA A&A Waste and Recycling DBA A&A Roll-off and Waste

Policy Number: CSIEL01148-00

Schedule of Participating Underwriters:

Company	Participation
Certain Underwriter’s at Lloyd’s of London	
MOS 1609	70.00%
Palms Insurance Company, Limited	
Palms Insurance Company, Limited	30.00%

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:
 - (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;

- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:
- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a.**, **b.** and **c.** of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within one year of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

- g.** All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2.** If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a.** The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b.** This insurance applies to such liability assumed by the insured;
 - c.** The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d.** The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - e.** The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - f.** The indemnitee:
 - (1)** Agrees in writing to:
 - (a)** Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b)** Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c)** Notify any other insurer whose coverage is available to the indemnitee; and
 - (d)** Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2)** Provides us with written authorization to:
 - (a)** Obtain records and other information related to the "suit"; and
 - (b)** Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

SECTION II – WHO IS AN INSURED

- 1.** If you are designated in the Declarations as:
 - a.** An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b.** A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c.** A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d.** An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e.** A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by;
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by; you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

- c. Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage **C**;
- b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage **B**.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage **A**; and
 - b. Medical expenses under Coverage **C**
 because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and

- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

- b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.
- (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

(2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;

- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph **a.** above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph **a.** above;
 - (2) The activities of a person whose home is in the territory described in Paragraph **a.** above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph **a.** above or in a settlement we agree to.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a.** A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b.** A sidetrack agreement;
- c.** Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d.** An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e.** An elevator maintenance agreement;
- f.** That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

- (1)** That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2)** That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a)** Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b)** Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3)** Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(2)** above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a.** After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b.** While it is in or on an aircraft, watercraft or "auto"; or
- c.** While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a.** Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b.** Vehicles maintained for use solely on or next to premises you own or rent;
- c.** Vehicles that travel on crawler treads;
- d.** Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1)** Power cranes, shovels, loaders, diggers or drills; or
 - (2)** Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e.** Vehicles not described in Paragraph **a., b., c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2)** Cherry pickers and similar devices used to raise or lower workers;
- f.** Vehicles not described in Paragraph **a., b., c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a.** An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b.** Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

- (1)** Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a)** You;
 - (b)** Others trading under your name; or
 - (c)** A person or organization whose business or assets you have acquired; and
- (2)** Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2)** The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

- (1)** Work or operations performed by you or on your behalf; and
- (2)** Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2)** The providing of or failure to provide warnings or instructions.

CONTRACTORS POLLUTION LIABILITY COVERAGE FORM

PLEASE READ THE ENTIRE COVERAGE FORM CAREFULLY.

CLAIMS EXPENSES ARE INCLUDED WITHIN THE DEDUCTIBLE AMOUNT AND THE LIMITS OF INSURANCE WILL BE REDUCED BY CLAIMS EXPENSES.

Various provisions in this Coverage Form restrict coverage. This is limited insurance. It does not provide Commercial General Liability Coverage. Read the entire Coverage Form carefully to determine rights, duties and what is and is not covered.

Throughout this Coverage Form the words “you”, “your” or “named insured” refer to the entity(ies) identified in the Declarations, and any other person or organization qualifying as a named insured under this Coverage Form. The words “we”, “us” and “our” refer to the Company providing this insurance.

The word “insured” means any person or organization qualifying as such under **SECTION III – WHO IS AN INSURED**. Other words and phrases that appear in **bold** have special meaning. Refer to **SECTION II – DEFINITIONS**.

SECTION I – COVERAGES

1. INSURING AGREEMENT

A. We will pay those sums that the insured becomes legally obligated to pay as **damages** because of **bodily injury** or **property damage** in excess of the deductible or self-insured retention, resulting from **pollution conditions** to which this insurance applies. We will have the right and duty to defend the insured against any **claim** or **suit** seeking those **damages**. However, we will have no duty to defend the insured against any **claim** or **suit** seeking **damages** to which this insurance does not apply. We may, at our discretion, investigate any **pollution conditions** and settle any **claim** or **suit** that may result, but:

- (1) The amount we will pay for **damages** is limited as described in **SECTION IV – LIMITS OF INSURANCE AND DEDUCTIBLE**; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered.

B. This insurance applies to **bodily injury** and **property damage** only if:

- (1) The **bodily injury** or **property damage** is caused by a **pollution condition** that takes place in the **coverage territory** and is caused by an **occurrence**;
- (2) The **bodily injury** or **property damage** first occurs during the policy period; and
- (3) The **bodily injury** or **property damage** arises out of **your work**.

- C. In the event that a **pollution condition** continues to take place during more than one policy issued by us, only the policy during which the **pollution condition** first commenced will respond. Under no circumstances will more than one policy issued by us provide coverage for **bodily injury** or **property damage** arising from the same **pollution condition**.

SECTION II – DEFINITIONS

A. **Auto** means:

- (1) A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- (2) Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

B. Bodily injury means physical injury, sickness, disease, mental anguish or emotional distress sustained by a person, including death resulting from any of these at any time. **Bodily injury** includes civil fines, penalties or assessment, and where allowable by law, punitive, exemplary or multiplied damages.

C. Claim or claims means a request or a demand, including the institution of **suit** or arbitration proceedings against any insured, received by you or us and seeking the payment of **damages** by an insured.

D. Claim expenses means fees and expenses that are incurred by us, or by an attorney retained by us, in the investigation, settlement, defense or appeal of a **claim** or **suit**. Such expenses include:

- (1) Reasonable expenses an insured incurs at our request while helping us to investigate or defend a **claim** or **suit**, but we will not pay more than \$500 a day to any insured who attends as a witness at any trial, deposition or interrogatory at which the Company has requested the insured's attendance, or when such attendance is required by the court. The maximum amount payable for all such expenses shall not exceed \$5,000 as a total aggregate for the policy period.
- (2) If incurred by us, or by the insured with our written consent, costs taxed against the insured in the **suit**, pre-judgment interest and post-judgment interest.

Claim expenses do not include salaries of our employees or our official.

E. Cleanup costs means expenses incurred in the investigation, evaluation, monitoring, testing, removal, containment, treatment, response, disposal, remediation, detoxification or neutralization of any **pollutants** from property or **natural resources**, provided that such expenses result from **your work**, and that such expenses:

- (1) Are required by applicable environmental laws, rules, regulations, or ordinances, or specifically mandated by court order, the government or any political subdivision or agency of the United States of America or any state or municipality thereof, or Canada or any province thereof; or
- (2) Have actually been incurred by the government or any political subdivision or agency of the United States of America or any state or municipality thereof, or Canada or any province thereof, or by any third parties; or
- (3) Result from **Emergency response expenses**.

Cleanup cost also includes **replacement cost**.

F. **Coverage territory** means:

- (1) The United States of America (including its territories and possessions), Puerto Rico and Canada.
- (2) All other parts of the world if the injury or damage arises out of:

- (a) The activities of a person whose home is in the territory described in (1) above, but is away for a short time on your business; or
- (b) The insured's responsibility to pay **damages** is determined in a **suit** on the merits, in the territory described in (1) above, or in a settlement we agree to.

G. Damages means monetary judgements, awards or settlements of compensatory damages arising from **bodily injury** or **property damage**, including related **claim expenses**.

H. Emergency response expenses means reasonable cost incurred by the named insured or affiliated entity in response to a **pollution condition**, and:

- (1) The **pollution condition** is discovered no later than seven (7) calendar days after its commencement; and
- (2) The **pollution condition** is reported to us no later than thirty (30) calendar days after its commencement.

I. Employee includes a **leased worker** and a **temporary worker** working on behalf of and under direct supervision of you, but only for **your work**.

J. Executive officer means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

K. Insured Contract means that part of any written contract or agreement under which the Named Insured assumes tort liability of another party to pay compensatory damages for **Bodily injury** or **Property damage** to a third party or organization. Tort liability means liability that would be imposed by law in the absence of any contract or agreement.

L. Leased worker means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. **Leased worker** does not include a **temporary worker**.

M. Natural resources means land, surface water, subsurface strata or air.

N. Natural resources damages means physical injury to or destruction of, as well as the assessment of such injury or destruction, including the resulting loss of value of land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et. seq.)), any State, Local or Provincial government, any foreign government, any Native American tribe or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe.

O. Non-owned Disposal Site means a facility or site that is used for treatment, transfer, landfill, storage or disposal of any **pollutants** which is not owned, operated, leased or maintained by the named insured or affiliated entity.

P. Occurrence means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

Q. Pollutants mean any solid, liquid, gaseous or thermal or biological substance, material, matter, medical or pathological waste, irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste and naturally occurring radioactive material.

R. Pollution condition means the discharge, dispersal, seepage, migration, release or escape of **pollutants**. In the event of related **pollution conditions**, or of the continuation of the same or related **pollution conditions** over any period of time, such **pollution conditions** shall be deemed to be one **pollution condition**.

S. Products-completed operations hazard:

(1) Includes all **bodily injury** and **property damage** occurring away from premises you own or rent and arising out of **your product** or **your work** except:

(a) Products that are still in your physical possession; or

(b) Work that has not yet been completed or abandoned. However, **your work** will be deemed completed at the earliest of the following times:

i. When all of the work called for in your contract has been completed.

ii. When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

iii. When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

(2) Does not include **bodily injury** or **property damage** arising out of:

(a) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the loading or unloading of that vehicle by any insured;

(b) The existence of tools, uninstalled equipment or abandoned or unused material.

T. Property damage means:

(1) Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

(2) Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time such loss of use first manifests itself; or

(3) **Cleanup cost**; or

(4) **Natural Resource Damages**; or

(5) Civil fines, penalties or assessments and where allowable by law, punitive, exemplary, or multiple **damages**.

U. Replacement cost means reasonable expenses incurred by the named insured to repair or replace real property or physical improvements to such real property that were made prior to the **pollution condition** and damaged during the course of responding to the **pollution condition**.

Replacement cost does not include cost associated with improvements of real property.

V. Suit means a civil proceeding in which **damages** because of **bodily injury, property damage** to which this insurance applies are alleged. **Suit** includes:

- (1) An arbitration proceeding in which such **damages** are claimed and to which the insured must submit or does submit with our consent; or
- (2) Any other alternative dispute resolution proceeding in which such **damages** are claimed and to which the insured submits with our consent.

W. Temporary worker means a person who is furnished to you to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions.

X. Volunteer worker means a person who is not your **employee**, and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

Y. Your product:

- (1) Means:
 - (a) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - i. You; or
 - ii. Others trading under your name; or
 - iii. A person or organization whose business or assets you have acquired; and
 - (b) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- (2) Includes:
 - (a) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your product**; and
 - (b) The providing of or failure to provide warnings or instructions.
- (3) Does not include vending machines or other property rented to or located for the use of others but not sold.

Z. Your work:

- (1) Means:
 - (a) Work or operations performed by you or on your behalf; and
 - (b) Materials, parts or equipment furnished in connection with such work or operations.

(2) Includes:

- (a) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and
- (b) The providing of or failure to provide warnings or instructions.

SECTION III – WHO IS AN INSURED

1. If you are designated in the Declarations as:

- A. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- B. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- C. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- D. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your **executive officers** and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- E. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- A. Your **volunteer workers** only while performing duties related to the conduct of your business, or your **employees**, other than either your **executive officers** (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of **your work**.
- B. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a named insured in the Declarations.

SECTION IV – LIMITS OF INSURANCE AND DEDUCTIBLE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - A. Insureds;
 - B. **Claims** made or **suits** brought; or
 - C. Persons or organizations making **claims** or bringing **suits**.
2. The General Aggregate Limit is the most we will pay for the sum of **damages** and supplementary payments and will not exceed the aggregate limit of liability shown in the Declarations.
 Once the aggregate limit of liability has been exhausted, we shall not be obligated to defend or continue to defend any **claim** made or **suit** brought.
3. Subject to 2. above, the Each **Occurrence** Limit is the most we will pay for the sum of **damages** and supplementary payments because of all **bodily injury** and **property damage** arising out of any one **occurrence**.
4. Subject to 3. above, our obligation under this insurance to pay **damages** and **claims expenses** on behalf of the insured only applies in excess of the Deductible Amount shown in the Declarations for the sum of all **damages** and **claims expenses** because of all **bodily injury** or **property damage** arising out of any one **transportation pollution condition**.
5. All **claims expenses** shall first be subtracted from the available Limits of Insurance under this Coverage Part, with the remainder, if any, being the amount available to pay **damages**. If an available Limit of Insurance is exhausted prior to settlement or judgment of any pending **claim** or **suit**, we shall have the right to withdraw from the further investigation or defense thereof by tendering control of such investigation or defense to the insured.
6. If we have paid any amount as a result of this Coverage Part for **damages** or **claims expenses** in excess of the Limits of Insurance or within the Deductible Amount, you shall be liable to us for such amounts and, upon demand, shall pay such amounts to us. We shall not make any payment in excess of the Limits of Insurance without your consent.
7. We, at our sole election and option, may either:
 - (1) Pay any part or all of the Deductible Amount to effect settlement of any **claim**; or
 - (2) Simultaneously upon receipt of notice of any **claim** or at any time thereafter, call upon you to pay or deposit with us all or any part of the Deductible Amount, to be held and applied by us as herein provided.
8. The Limits of Insurance of this Coverage Part apply to the policy period as shown in the Declarations and to any extension or contraction of that policy period.

SECTION V – CONDITIONS

1. Duties In the Event of a Pollution Condition, Claim or Suit

- A. You must see to it that we are notified as soon as practicable of a **pollution condition** which may result in a **claim** or **suit**. To the extent possible, notice should include:
 - (1) How, when and where the **pollution condition** took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the **pollution condition**.
- B. If a **claim** is made or **suit** is brought against any insured, you must:
 - (a) Immediately record the specifics of the **claim** or **suit** and the date received; and
 - (b) You must see to it that we receive written notice of the **claim** or **suit** as soon as practicable.
- C. You and any other involved insured must:
 - (a) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim** or **suit**;
 - (b) Authorize us to obtain records and other information;
 - (c) Cooperate with us in the investigation or settlement of the **claim** or defense against the **suit**; and
 - (d) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- D. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid or **emergency response expenses**, without our consent.

2. Other Insurance

- A. Primary Insurance

This insurance is primary of any other applicable insurance. The Company's obligations are not affected unless any other applicable, unaffiliated insurance is also determined to be primary. In that event, the insurer, shall share with the insurer underwriting such other insurance, by the method described in Paragraph B., below.
- B. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

SECTION VI – EXCLUSIONS

This insurance does not apply to **claim, claim expenses or damages** based upon or arising out of:

A. Auto, Aircraft, Watercraft or Rolling Stock

Bodily injury or property damage based upon or arising out of the ownership, maintenance, use or the entrustment to others of any **auto**, aircraft, watercraft, or rolling stock owned or operated by or rented or loaned to any insured. Use includes operation and loading or unloading.

However, this exclusion does not apply to **pollution conditions** arising out of the ownership, maintenance, use, operation, loading or unloading of any **auto**, aircraft, watercraft, or rolling stock within the boundaries of the site where **your work** is being performed.

B. Contractual Liability

Bodily injury or property damage based upon or arising out of the liability of others assumed by an insured under any contract or agreement. This exclusion does not apply to liability for **damages**:

- (1) Assumed in a contract or agreement that is an **insured contract**, provided the **pollution condition** occurs subsequent to the execution of the contract or agreement; or
- (2) That the insured would have in the absence of the contract or agreement.

C. Criminal Fines, Penalties and Assessments

- (1) Any criminal fines, penalties or assessments;
- (2) Punitive, exemplary or multiplied damages, except where allowable by law;

D. Damage to Property

Property damage to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured.

This exclusion does not apply to **Property damage** arising from a **pollution condition** at or from the named insured's temporary rental, lease of use or non-owned property used to house equipment and materials in connection with and located within the boundaries of the job site where **your work** is being performed.

E. Damage to Your Product

Bodily injury or property damage arising out of **your product**.

This exclusion does not apply to materials, parts or equipment furnished in connection with **your work** or operations.

F. Damage to Your Work

Property damage to your work arising out of it or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply to **replacement cost**.

G. Employer's Liability and Workers' Compensation

- (1) The Named Insured's employment obligations, decisions, practices or policies as an employer; or
- (2) Any obligation which the insured or any carrier as insurer may be liable under any workers' compensation, unemployment compensation or disability benefits law or similar law.

And:

Bodily injury to:

- (1) Any **employee** of the Named Insured arising out of and in the course of:
 - (a) Employment by the Named Insured; or
 - (b) Performing duties related to the conduct of the Named Insured's business; or
- (2) Any spouse (or person living together as spouse), child, parent, brother, sister or dependent of the **employee** as a consequence of (1) above.

H. Expected or Intended Injury

Bodily injury or **property damage** expected or intended from the standpoint of the insured.

I. Intentional Acts

Bodily injury or **property damage** arising out of your intentional, willful or deliberate non-compliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order or instruction of any governmental or public agency or body either before or after coverage inception.

J. Knowingly Wrongful Acts

Bodily injury or **property damage** based upon or arising from the insured's dishonest, fraudulent, malicious, or knowingly wrongful act, error or omission.

K. Other Enterprises

Bodily injury or **property damage** arising out of any business enterprise owned, operated or managed by the insured or its parent company or the affiliate, successor or assignee of such company not named in the Declarations.

L. Known Injury or Damage

Bodily injury or **property damage** that occurred in whole or in part and was known to any insured prior to the beginning of the policy.

M. Non-owned Disposal Sites

Bodily injury or **property damage** resulting from a **pollution condition** at or from a **non-owned disposal site**.

N. Other Insured

Any **claim** made or **suit** brought by or on behalf of:

- (1) Your parent corporation, a subsidiary of your parent corporation or your subsidiary; or
- (2) Any insured against any other insured covered under this insurance.

This exclusion does not apply to a person or organization who would not be an insured under this policy except for an endorsement to this policy adding them as an additional insured.

O. Professional Services

Bodily injury or **property damage** arising out of the rendering of or failure to render professional services by you or any contractor or subcontractor working on your behalf, including the preparation or approval of maps, drawings, opinions, reports, surveys, designs, specifications or engineering services.

P. Radioactive Matter

Bodily injury or **property damage** arising out of, resulting from, caused by or contributed to by:

- (1) Ionizing radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel.
- (2) The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.
- (3) Any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force of matter.

TRANSPORTATION POLLUTION LIABILITY COVERAGE FORM

PLEASE READ THE ENTIRE COVERAGE FORM CAREFULLY.

CLAIMS EXPENSES ARE INCLUDED WITHIN THE DEDUCTIBLE AMOUNT AND THE LIMITS OF INSURANCE WILL BE REDUCED BY CLAIMS EXPENSES.

Various provisions in this Coverage Form restrict coverage. This is limited insurance. It does not provide Auto Liability Coverage. Read the entire Coverage Form carefully to determine rights, duties and what is and is not covered.

Throughout this Coverage Form the words “you”, “your” or “named insured” refer to the entity(ies) identified in the Declarations, and any other person or organization qualifying as a Named Insured under this Coverage Form. The words “we”, “us” and “our” refer to the Company providing this insurance.

The word “insured” means any person or organization qualifying as such under **SECTION III – WHO IS AN INSURED**. Other words and phrases that appear in **bold** have special meaning. Refer to **SECTION II – DEFINITIONS**.

SECTION I – COVERAGES

1. INSURING AGREEMENT

- A.** We will pay those sums that the insured becomes legally obligated to pay as **damages** because of **bodily injury** or **property damage** to which this insurance applies. We will have the right and duty to defend the insured against any **claim** or **suit** seeking those **damages**. However, we will have no duty to defend the insured against any **claim** or **suit** seeking **damages** for **bodily injury** or **property damage** to which this insurance does not apply. We may, at our discretion, investigate any **occurrence** and settle any **claim** or **suit** that may result, but:

- (1) The amount we will pay for **damages** and **claims expenses** is limited as described in **SECTION IV – LIMITS OF INSURANCE AND DEDUCTIBLE**; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or **claims expenses**.

No other obligation or liability to pay sums or perform acts or services is covered.

- B.** This insurance applies to **bodily injury** and **property damage** only if:

- (1) The **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the **coverage territory**;
- (2) The **bodily injury** or **property damage** occurs during the policy period; and
- (3) The **bodily injury** or **property damage** results from a **transportation pollution condition** that arises from the transportation of **cargo** in or on a **covered auto**.

If such **bodily injury** or **property damage** takes place during multiple policy periods for policies issued by us, all **bodily injury** or **property damage** will be deemed to have taken place during the earliest period during which the **bodily injury** or **property damage** commenced.

SECTION II – DEFINITIONS

- A. **Auto** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached **auto**, trailer, machinery or equipment. However, **auto** does not include **mobile equipment**.
- B. **Bodily injury** means physical injury, sickness, disease, mental anguish or emotional distress sustained by a person, including death resulting from any of these at any time. **Bodily injury** includes civil fines, penalties or assessment, and where allowable by law, punitive, exemplary or multiplied damages.
- C. **Cargo** means goods, products or waste that are:
 - (1) Being transported by you or on your behalf; and
 - (2) Carried for delivery on or located within a **covered auto** while in the course of transit.

However, **cargo** does not include any goods, products or waste that the **covered auto** is not properly licensed to transport.

- D. **Claim** or **claims** means a request or a demand, including the institution of **suit** or arbitration proceedings against any insured, received by you or us and seeking the payment of **damages** by an insured.
- E. **Claims expenses** means fees and expenses that are incurred by us, or by an attorney retained by us, in the investigation, settlement, defense or appeal of a **claim** or **suit**. Such expenses include:
 - (1) Reasonable expenses an insured incurs at our request while helping us to investigate or defend a **claim** or **suit**, but we will not pay more than \$500 a day to any insured who attends as a witness at any trial, deposition or interrogatory at which the Company has requested the insured's attendance, or when such attendance is required by the court. The maximum amount payable for all such expenses shall not exceed \$5,000 as a total aggregate for the policy period.
 - (2) If incurred by us, or by the insured with our written consent, costs taxed against the insured in the **suit**, pre-judgment interest and post-judgment interest.
- F. **Cleanup costs** means expenses incurred in the investigation, evaluation, monitoring, testing, removal, containment, treatment, response, disposal, remediation, detoxification or neutralization of any **pollutants** from property or **natural resources**, provided that such expenses result from the transportation of **cargo** in or on a **covered auto**, and that such expenses:
 - (1) Are required by applicable environmental laws, rules, regulations, or ordinances, or specifically mandated by court order, the government or any political subdivision or agency of the United States of America or any state or municipality thereof, or Canada or any province thereof; or
 - (2) Have actually been incurred by the government or any political subdivision or agency of the United States of America or any state or municipality thereof, or Canada or any province thereof, or by any third parties; or
 - (3) Result from **Emergency response expenses**.

Cleanup cost also includes **replacement cost**.

- G. **Coverage territory** means the United States of America (including its territories and possessions), Puerto Rico and Canada.

H. Covered auto means any **auto** that:

- (1) You own or operate; or
- (2) Is shown in the Vehicle Schedule endorsement as a **Covered auto**.

I. Damages means monetary judgements, awards or settlements of compensatory damages arising from **bodily injury** or **property damage**, including related **claim expenses**.

J. Emergency response expenses means reasonable cost incurred by the named insured or affiliated entity in response to a **transportation pollution condition**; subject to:

- (1) The **transportation pollution condition** is discovered no later than twenty-four (24) hours after its commencement; and
- (2) The **transportation pollution condition** is reported to us no later than seven (7) calendar days after its commencement.
- (3) **Emergency response expenses** are considered **damages** under this policy and are not **claim expenses**.

K. Employee includes a **leased worker** and a **temporary worker** working on behalf of and under direct supervision of you, but only for **your work**.

L. Executive officer means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

M. Leased worker means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. **Leased worker** does not include a **temporary worker**.

N. Mobile equipment means any of the following types of land vehicles, including any attached machinery or equipment:

- (1) Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- (2) Vehicles maintained for use solely on or next to premises you own or rent;
- (3) Vehicles that travel on crawler treads;
- (4) Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (a) Power cranes, shovels, loaders, diggers or drills; or
 - (b) Road construction or resurfacing equipment such as graders, scrapers or rollers.
- (5) Vehicles not described in (1), (2), (3) or (4) above, that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (a) Air Compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (b) Cherry pickers and similar devices used to raise or lower workers.
- (6) Vehicles not described in (1), (2), (3) or (4) above, are maintained primarily for purposes other than the transportation of persons or **cargo**.

However, self-propelled vehicles with the following types of permanently attached equipment are designed primarily for:

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning; are not **mobile equipment** but will be considered **autos**.

However, **mobile equipment** does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered **autos**.

- O. Natural resources damages** means physical injury to or destruction of, as well as the assessment of such injury or destruction, including the resulting loss of value of land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et. seq.)), any State, Local or Provincial government, any foreign government, any Native American tribe or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe.
- P. Non-Owned Disposal Site** means a facility or site that is used for treatment, transfer, landfill, storage or disposal of any **pollutants** which is not owned, operated, leased or maintained by the named insured or affiliated entity.
- Q. Occurrence** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions resulting from a **transportation pollution condition**.
- R. Pollutants** mean any solid, liquid, gaseous or thermal or biological substance, material, matter, medical or pathological waste irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste and naturally occurring radioactive material.
- S. Property damage means:**
 - (1) Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
 - (2) Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time such loss of use first manifest itself; or
 - (3) **Cleanup cost**; or
 - (4) **Natural Resource Damages**; or
 - (5) Civil fines, penalties or assessments and where allowable by law, punitive, exemplary, or multiple damages.
- T. Replacement cost** means reasonable expenses incurred by the named insured to repair or replace real property or physical improvements to such real property that were made prior to the **transportation pollution condition** and damaged during the course of responding to the **transportation pollution condition**.

Replacement cost does not include cost associated with improvements of real property.

- U. Suit** means a civil proceeding in which **damages** because of **bodily injury, property damage** to which this insurance applies are alleged. **Suit** includes:

- (1) An arbitration proceeding in which such **damages** are claimed and to which the insured must submit or does submit with our consent; or
- (2) Any other alternative dispute resolution proceeding in which such **damages** are claimed and to which the insured submits with our consent.

V. Temporary worker means a person who is furnished to you to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions.

W. Transportation pollution condition means the accidental discharge, dispersal, seepage, migration, release or escape of **pollutants** as a result of the **covered auto** operating on a public road.

X. Volunteer worker means a person who is not your **employee**, and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

Y. Your product

- (1) Means:
 - (a) Any goods or products (other than real property), manufactured, sold, handled, distributed or disposed of by:
 - i. You;
 - ii. Others trading under your name; or
 - iii. A person or organization whose business or assets you have acquired; and
 - (b) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- (2) Includes:
 - (a) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your product**; and
 - (b) The providing of or failure to provide warnings or instructions.
- (3) Does not include vending machines or other property rented to or located for the use of others but not sold.

Z. Your work

- (1) Means:
 - (a) Work or operations performed by you or on your behalf; and
 - (b) Materials, parts or equipment furnished in connection with such work or operations.
- (2) Includes:
 - (a) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and
 - (b) The providing of or failure to provide warnings or instructions.
 - (c) **Your work** does not include transportation of **cargo** in or on a **covered auto**.

SECTION III – WHO IS AN INSURED

1. If you are designated in the Declarations as:

- A. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- B. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- C. A Limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- D. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your **executive officers** and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- E. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- A. Your **volunteer workers** only while performing duties related to the conduct of your business, or your **employees**, other than either your **executive officers** (if you are an organization other than a partnership joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of **your work**.
- B. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION IV – LIMITS OF INSURANCE AND DEDUCTIBLE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - A. Insureds;
 - B. **Claims** made or **suits** brought; or
 - C. Persons or organizations making **claims** or bringing **suits**.
 - D. Governmental actions taken with respect to **cleanup costs**.
2. The Aggregate Limit is the most we will pay for the sum of all **damages** and **claims expenses**.
3. Subject to 2. above, the **Transportation Pollution Condition Limit** is the most we will pay for the sum of all **damages** and **claims expenses** because of all **bodily injury** or **property damage** arising out of any one **transportation pollution condition**.
4. Subject to 3. above, our obligation under this insurance to pay **damages** and **claims expenses** on behalf of the insured only applies in excess of the Deductible Amount shown in the Declarations for the sum of all **damages** and **claims expenses** because of all **bodily injury** or **property damage** arising out of any one **transportation pollution condition**.
5. All **claims expenses** shall first be subtracted from the available Limits of Insurance under this Coverage Part, with the remainder, if any, being the amount available to pay **damages**. If an available Limit of Insurance is exhausted prior to settlement or judgment of any pending **claim** or **suit**, we shall have the right to withdraw from the further investigation or defense thereof by tendering control of such investigation or defense to the insured.
6. If we have paid any amount as a result of this Coverage Part for **damages** or **claims expenses** in excess of the Limits of Insurance or within the Deductible Amount, you shall be liable to us for such amounts and, upon demand, shall pay such amounts to us. We shall not make any payment in excess of the Limits of Insurance without your consent.
7. We, at our sole election and option, may either:
 - A. Pay any part or all of the Deductible Amount to effect settlement of any **claim**; or
 - B. Simultaneously upon receipt of notice of any **claim** or at any time thereafter, call upon you to pay or deposit with us all or any part of the Deductible Amount, to be held and applied by us as herein provided.
8. The Limits of Insurance of this Coverage Part apply to the policy period as shown in the Declarations and to any extension or contraction of that policy period.

SECTION V – CONDITIONS

1. Duties In The Event of Transportation Pollution Condition, Claim or Suit

A. You must see to it that we are notified as soon as practicable of a **transportation pollution condition** which may result in a **claim** or **suit**. To the extent possible, notice should include:

- (1) How, when and where the **transportation pollution condition** took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the **transportation pollution condition**.

B. If a **claim** is made or **suit** is brought against any insured, you must:

- (1) Immediately record the specifics of the **claim** or **suit** and the date received;
- (2) Notify us as soon as practicable; and
- (3) You must see to it that we receive written notice of the **claim** or **suit** as soon as practicable.

C. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim** or **suit**;
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the **claim** or defense against the **suit**; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

D. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid or **emergency response expenses**, without our consent.

2. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

A. Primary Insurance

This insurance is primary of any other applicable insurance. The Company's obligations are not affected unless any other applicable, unaffiliated insurance is also determined to be primary. In that event, the insurer, shall share with the insurer underwriting such other insurance, by the method described in Paragraph B., below.

B. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

SECTION VI – EXCLUSIONS

This insurance does not apply to **claim, claim expenses** or **damages** based upon or arising out of:

A. Contractual Liability

Bodily injury or **property damage** based upon or arising out of the liability of others assumed by an insured under any contract or agreement. This exclusion does not apply to liability for **damages**:

- (1) Assumed in a contract or agreement that is an **insured contract**, provided the **pollution condition** occurs subsequent to the execution of the contract or agreement; or
- (2) That the insured would have in the absence of the contract or agreement.

B. Criminal Fines, Penalties and Assessments

- (1) Any criminal fines, criminal penalties or criminal assessments.
- (2) Punitive, exemplary or multiplied damages, except where allowable by law.

C. Damage to Property

Property damage to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured.

D. Employer's Liability and Workers' Compensation

- (1) The Named Insured's employment obligations, decisions, practices or policies as an employer; or
- (2) Any obligation which the Insured or any carrier as insurer may be liable under any workers' compensation, unemployment compensation or disability benefits law or similar law.

And:

Bodily injury to:

- (1) Any **employee** of the Named Insured arising out of and in the course of:
 - (a) Employment by the Named Insured; or
 - (b) Performing duties related to the conduct of the Named Insured's business; or
- (2) Any spouse (or person living together as spouse), child, parent, brother, sister or dependent of the **employee** as a consequence of (1) above.

E. Expected or Intended Injury

Bodily injury or **property damage** expected or intended from the standpoint of the insured.

F. Fuel and Lubricants

Bodily injury or **property damage** arising out of the discharge, dispersal, seepage, migration, release or escape of fuels, lubricants, fluids, exhaust gases or other similar **pollutants** that are:

- (1) Used to further the operation; or
- (2) Needed for or result from the normal functioning, of a **covered auto** or its parts, or any attached **auto**, machinery, equipment or trailer.

G. Handling of Cargo

Bodily injury or **property damage** arising out of the handling of **cargo**:

- (1) Before it is moved from the place where it is accepted by the insured for movement into or onto the **covered auto**; or
- (2) After it is moved from the **covered auto** to the place where it is finally delivered by the insured.

H. Intentional Acts

Bodily injury or **property damage** arising out of your intentional, willful or deliberate non-compliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order or instruction of any governmental or public agency or body either before or after coverage inception.

I. Known Injury or Damage

Bodily injury or **property damage** that occurred in whole or in part and was known to any insured prior to the beginning of the policy period.

J. Mechanical Device

Bodily injury or **property damage** resulting from the movement of **cargo** by a mechanical device (other than a hand truck) unless the device is attached to the **covered auto**.

K. Non-Owned Disposal Sites

Bodily injury or **property damage** resulting from a **transportation pollution condition** at or from a **non-owned** disposal site.

L. Other Enterprises

Bodily injury or **property damage** arising out of any business enterprise owned, operated or managed by the insured or its parent company or the affiliate, successor or assignee of such company not named in the Declarations.

M. Other Insured

Any **claim** made or **suit** brought by or on behalf of:

- (1) Your parent corporation, a subsidiary of your parent corporation or your subsidiary; or
- (2) Any insured against any other insured covered under this insurance.

This exclusion does not apply to a person or organization who would not be an insured under this policy except for an endorsement to this policy adding them as an additional insured.

N. Product or Work

Bodily injury or **property damage** arising out of **your product** or **your work**.

O. Professional Services

Bodily injury or property damage arising out of the rendering of or failure to render professional services by you or any contractor or subcontractor working on your behalf, including the preparation or approval of maps, drawings, opinions, reports, surveys, designs, specifications or engineering services.

P. Radioactive Matter

Bodily injury or property damage arising out of, resulting from, caused by or contributed to by:

- (1) Ionizing radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel.
- (2) The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.
- (3) Any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force of matter.

Q. Storage

Bodily injury or property damage arising out of the discharge, dispersal, seepage, migration, release or escape of **pollutants** that:

- (1) Are being stored, disposed of, treated or processed in or upon any **covered auto**; or
- (2) Contained in any property that is, being stored, disposed of, treated or processed in or upon any **covered auto**.

This exclusion does not apply to any **covered auto** that is parked for less than sixteen (16) hours at a location during the transportation of **cargo** to its intended destination.

R. Wrongful Delivery

Bodily injury or property damage arising out of the delivery of:

- (1) Any material into the wrong receptacle or to the wrong address or wrong location; or
- (2) The wrong material.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMON POLICY CONDITIONS ENDORSEMENT

All Coverage Parts included in this policy are subject to the following Conditions. The Conditions herein shall take precedence over any found elsewhere in the policy which has the same heading.

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

2. Legal Action Against Us

No person or organization has a right under this policy:

- A. To join us as a party or otherwise bring us into a **suit** asking for damages from an Insured; or
- B. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial, but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

3. Premium Audit

- A. We will compute all premiums for this policy in accordance with our rules, rates, rating plans, premiums, and minimum premium requirements.
- B. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured.
- C. The Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.
- D. We may examine and audit your books and records as they relate to this policy at any time during the policy period and for up to three (3) years after expiration of the policy.
- E. Premium adjustments affected as a result of premium audits may be done by us while the policy is in effect.
- F. Premium Audit adjustment calculations will be made to determine additional premium only. You have agreed with us that there will be no downward adjustments of the Premium.

4. Representations

By accepting this policy, you agree:

- A. The statements in the Declarations and in the application for insurance and information submitted therewith are accurate and complete;
- B. Those statements are based upon representations you made to us;

- C. Those representations shall be deemed material;
- D. This policy is void if those representations are false;
- E. We have issued this policy in reliance upon your representations;
- F. This policy embodies all agreements existing between the insured and the Company relating to this insurance.

5. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- A. As if each Named Insured were the only Named Insured; and
- B. Separately to each Insured against whom a **claim** is made or **suit** is brought.

6. Transfer Of Rights of Recovery Against Others to Us

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us, the insured must do nothing after loss to impair them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.

7. When We Do Not Renew

If we decide to cancel or not to renew this policy, we will mail or deliver to the first Named Insured shown in the Declarations (including via the insureds agent) written notice of the nonrenewal not less than thirty (30) days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

8. Cancellation

- A. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- B. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - (1) Ten (10) days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - (2) Thirty (30) days before the effective date of cancellation if we cancel for any other reason.
- C. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- D. Notice of cancellation will state the effective date of cancellation the policy period will end on that date.
- E. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- F. If notice is mailed, proof of mailing will be sufficient proof of notice.

9. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

10. Examination Of Your Books and Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and for up to three (3) years after expiration of the policy.

11. Inspection and Surveys

A. We have the right to:

- (1) Make inspections and surveys at any time.
- (2) Give you reports on the conditions we find; and
- (3) Recommend changes.

B. We are not obligated to make any inspections, surveys, reports or recommendations, and any such actions we do undertake, relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not perform the duties of any person or organization to provide for the health or safety of workers or the public. Additionally, we do not warrant that conditions:

- (1) Are safe or healthful; or
- (2) Comply with laws, regulations, codes or standards.

Paragraphs (a) and (b) of this condition, apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations on our behalf.

12. Premiums

The first Named Insured shown in the Declarations:

- A. Is responsible for the payment of all premiums; and
- B. Will be the payee for any return premiums we pay.

13. Transfer Of Your Rights and Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured. If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

14. War

Bodily injury or **property damage**, however caused, arising, directly or indirectly, out of:

- A. War, including undeclared or civil war;
- B. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- C. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

15. Jurisdiction and Venue

It is agreed that in the event of the failure of the Company to pay any amount claimed to be due hereunder, the Company and the insured will submit to the jurisdiction of the State of New York, USA and will comply with all the requirements necessary to give such court jurisdiction. Nothing in this clause constitutes or should be understood to constitute a waiver of the Company's right to remove an action to a United States District Court.

16. Choice of Law

All matters arising hereunder including questions related to the validity, interpretation, performance, and enforcement of this Policy shall be determined in accordance with the law and practice of the State of New York, USA.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLICY PERIOD MINIMUM PREMIUM AND MINIMUM EARNED PREMIUM ENDORSEMENT

All Coverage Parts included in this policy are subject to the following Provisions:

1. Policy Period Minimum Premium

Policy Period Minimum Premium means the minimum premium earned at the end of the Policy Period shown in the Declarations. This policy may be subject to final audit, but under no circumstances will the audited earned premium be less than the Policy Period Minimum Premium shown, or less than the pro rata of the Policy Period Minimum Premium, if the policy is cancelled prior to the end of the Policy Period shown in the Declarations.

The Policy Period Minimum Premium for this policy is 100% of the Minimum & Deposit premium on the Declarations.

2. Policy Period Minimum Premium

If the insured elects to cancel this Policy at any time, for any reason, or the Company elects to cancel this Policy because of the insured's failure to pay any premium when due, the Company is entitled to the greatest of:

- A. A Minimum Earned Premium of 25% of the Minimum & Deposit Premium on the Declarations will apply, subject to a minimum of \$2,500 if the policy is cancelled within twelve (12) months of the policy effective date.
- B. The Total Advance (Deposit) Premium including endorsements, adjusted on a pro rata or short-rate basis; or
- C. The audited earned premium.

If the Company elects to cancel this Policy for any reason, then the Company is entitled to the greater of:

- A. The Policy Period Minimum Premium, adjusted on a pro rata basis; or
- B. The audited earned premium.

Your entire **gross sales** shall be used in computing the premium due unless certain services or items are excluded by specific endorsement to this policy.

For purposes of this endorsement, **gross sales** means the gross amount charged by you for services performed during the policy period, and does not exclude bad debts, accounts receivable or amounts that have not yet been billed for services performed.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLICY AGGREGATE AND PER OCCURRENCE LIMIT PROVISION ENDORSEMENT

All Coverage Parts included in this policy are subject to the following Provisions:

1. Notwithstanding anything contained in this policy to the contrary, the Policy Aggregate Limit identified below, and the ruled below, fix the most we will pay under this policy regardless of the number of:
 - A. Insureds;
 - B. **Claims** made or **suits** brought;
 - C. Persons or organizations making **claims** or bringing **suits**;
 - D. Governmental actions taken with respect to **cleanup costs**; or
 - E. Coverage Parts that are a part of this policy.
2. The Policy Aggregate Limit is the most we will pay for the sum of all **damages** and **claims expenses**.
3. The Policy Aggregate Limit applies to the policy period as shown in the Declarations and to any extension or contraction of that policy period.
4. If an Occurrence covered under any coverage part or coverage form of this policy is also covered in whole or part under any other coverage part or coverage form issued to you by us, the most we will pay is the single highest available applicable per Occurrence limit, but not to exceed the Policy Aggregate Limit.
5. The Policy Aggregate Limit is the lesser of:
 - A. The highest Aggregate Limit or General Aggregate Limit shown in any Coverage Part or Declarations of this policy; or
 - B. The following Policy Aggregate Limit, if any, shown below:

POLICY AGGREGATE LIMIT: \$2,000,000

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY & NON-CONTRIBUTORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY

CONTRACTORS POLLUTION LIABILITY

TRANSPORTATION POLLUTION LIABILITY

PROFESSIONAL LIABILITY

SCHEDULE

Name of Person or Organization:

If no person or organization is entered in the schedule above, then this endorsement applies to:

Any person(s) or organization(s) whom the Named Insured agrees, in a written contract, to provide Primary and/or Non-contributory status of this insurance. However, this status exists only for the project specified in that contract.

In consideration of the premium charged, it is hereby agreed that this policy shall be considered primary to any similar insurance held by third parties in respect to work performed by you under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and non-contributory to this insurance.

All other terms and conditions of this policy remain unchanged.

Policy Number: CSIEL01148-00

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDED WAIVER OF SUBROGATION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY

CONTRACTORS POLLUTION LIABILITY

TRANSPORTATION POLLUTION LIABILITY

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule below because of payments we make under this policy. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule below.

SCHEDULE

Name of Person or Organization:

If no person or organization is entered in the Schedule above, then the waiver applies to, any person or organization that is:

- (1) An owner of real or personal property on which you are performing operations, but only at the specific written request by that person or organization to you, and only if:
 - (a) That request is made prior to the date your operations for that person or organization commenced; and
 - (b) A Certificate of Insurance evidencing that request has been issued by your authorized insurance agent or broker; or
- (2) A contractor on whose behalf you are performing operations, but only at the specific written request by that person or organization to you, and only if:
 - (a) That request is made prior to the date your operations for that person or organization commenced; and
 - (b) A Certificate of Insurance evidencing that request has been issued by your authorized insurance agent or broker.

All other terms and conditions of this policy remain unchanged.

Sanction Limitation and Exclusion Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

**USA Policyholders Complaints Handling Procedures Clause
(no authority to handle complaints)**

1. Other than as set out in the sections below, the Coverholder does not have authority to handle complaints against Underwriters.
2. The Coverholder shall, in accordance with section 3, send to the Underwriters details of all complaints received by the Coverholder together with all documents relevant to the complaint. For these purposes, a complaint means any written communication where there is an expression of dissatisfaction with an insurance product or service. Complaints may be received directly from a complainant ("Direct Complaints") or through a state Department of Insurance (or equivalent agency) ("DOI Complaints").
3. The details and relevant documents referred to in section 2 shall be sent to the Underwriters no later than the end of the next business day after the day that the complaint is received.
4. Thereafter, the Coverholder shall continue to provide promptly to the Underwriters any further details or documents received relevant to the complaint.
5. The Coverholder shall maintain a register of all complaints received and shall provide a copy of the same to the Underwriters upon request.

**U.S. Terrorism Risk Insurance Act of 2002 as amended
Not Purchased Clause**

This Clause is issued in accordance with the terms and conditions of the "U.S. Terrorism Risk Insurance Act of 2002" as amended as summarized in the disclosure notice.

It is hereby noted that the Underwriters have made available coverage for "insured losses" directly resulting from an "act of terrorism" as defined in the "U.S. Terrorism Risk Insurance Act of 2002", as amended ("TRIA") and the Insured has declined or not confirmed to purchase this coverage.

This Insurance therefore affords no coverage for losses directly resulting from any "act of terrorism" as defined in TRIA except to the extent, if any, otherwise provided by this policy.

All other terms, conditions, insured coverage and exclusions of this Insurance including applicable limits and deductibles remain unchanged and apply in full force and effect to the coverage provided by this Insurance.

LMA5390

09 January 2020

CYBER and DATA - EXCLUSION

(for attachment to US General Liability and Excess Liability forms)

- 1 Notwithstanding any provision to the contrary within this Policy or any endorsement thereto this Policy does not apply to any actual or alleged loss, damage, liability, claim, fine, penalty, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any:
 - 1.1 **Cyber Act or Cyber Incident** including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **Cyber Act or Cyber Incident**; or
 - 1.2 **Data Breach**; or
 - 1.3 other loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss of, damage to, corruption of, inability to access or inability to manipulate or theft of any **Electronic Data**, including any amount pertaining to the value of such **Electronic Data**;regardless of any other cause or event contributing concurrently or in any other sequence thereto.
- 2 For the avoidance of doubt, this policy does not cover notification costs, crisis consultancy costs, credit monitoring expenses, replacement of actual credit or payment cards, forensic expenses, public relations expenses or legal advice and services arising out of or in connection with a **Data Breach**.

Definitions

- 3 **Computer System** means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the Insured or any other party.
- 4 **Cyber Act** means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any **Computer System**.
- 5 **Cyber Incident** means:
 - 5.1 any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **Computer System**; or
 - 5.2 any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **Computer System**.
- 6 **Data Breach** means:
 - 6.1 the theft, loss, access to, acquisition of, or unauthorized or unlawful use or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit or payment card information, health information, biometric data or any other type of non-public information; involving access to, processing of, use of or operation of any **Computer System** or
 - 6.2 the violation of any statute, regulation, common-law, or any other law regulating or protecting access to, collection, use or disclosure of, or failure to protect any non-public confidential or personal information in the form of **Electronic Data**.

7. **Electronic Data** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

LMA5532

17 December 2020

LLOYD'S PRIVACY POLICY STATEMENT

UNDERWRITERS AT LLOYD'S, LONDON

The Certain Underwriters at Lloyd's, London want you to know how we protect the confidentiality of your non-public personal information. We want you to know how and why we use and disclose the information that we have about you. The following describes our policies and practices for securing the privacy of our current and former customers.

INFORMATION WE COLLECT

The non-public personal information that we collect about you includes, but is not limited to:

- Information contained in applications or other forms that you submit to us, such as name, address, and social security number
- Information about your transactions with our affiliates or other third-parties, such as balances and payment history
- Information we receive from a consumer-reporting agency, such as credit-worthiness or credit history

INFORMATION WE DISCLOSE

We disclose the information that we have when it is necessary to provide our products and services. We may also disclose information when the law requires or permits us to do so.

CONFIDENTIALITY AND SECURITY

Only our employees and others who need the information to service your account have access to your personal information. We have measures in place to secure our paper files and computer systems.

RIGHT TO ACCESS OR CORRECT YOUR PERSONAL INFORMATION

You have a right to request access to or correction of your personal information that is in our possession.

CONTACTING US

If you have any questions about this privacy notice or would like to learn more about how we protect your privacy, please contact the agent or broker who handled this insurance. We can provide a more detailed statement of our privacy practices upon request.

06/03

LSW1135B

NUCLEAR INCIDENT EXCLUSION CLAUSE-LIABILITY-DIRECT (BROAD) (U.S.A.)

For attachment to insurances of the following classifications in the U.S.A., its Territories and Possessions, Puerto Rico and the Canal Zone:

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, Storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability),

not being insurances of the classifications to which the Nuclear Incident Exclusion Clause-Liability-Direct (Limited) applies.

This Policy* does not apply:

- I. Under any Liability Coverage, to injury, sickness, disease, death or destruction:
 - (a) with respect to which an insured under the Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- II. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
- III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if:
 - (a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
 - (b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - (c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.
- IV. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or by-product material; "source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act 1954 or in any law amendatory thereof; "spent fuel" means any fuel element or fuel component,

solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "waste" means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "nuclear facility" means:

- (a) any nuclear reactor,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

* NOTE: As respects policies which afford liability coverages and other forms of coverage in addition, the words underlined should be amended to designate the liability coverage to which this clause is to apply.

17/3/60
NMA1256

CANCELLATION CLAUSE

NOTWITHSTANDING anything contained in this Insurance to the contrary this Insurance may be cancelled by the Assured at any time by written notice or by surrendering of this Contract of Insurance. This Insurance may also be cancelled by or on behalf of the Underwriters by delivering to the Assured or by mailing to the Assured, by registered, certified or other first class mail, at the Assured's address as shown in this Insurance, written notice stating when, not less than **30** days thereafter, the cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice and this Insurance shall terminate at the date and hour specified in such notice.

If this Insurance shall be cancelled by the Assured the Underwriters shall retain the customary short rate proportion of the premium hereon, except that if this Insurance is on an adjustable basis the Underwriters shall receive the Earned Premium hereon or the customary short rate proportion of any Minimum Premium stipulated herein whichever is the greater.

If this Insurance shall be cancelled by or on behalf of the Underwriters the Underwriters shall retain the pro rata proportion of the premium hereon, except that if this Insurance is on an adjustable basis the Underwriters shall receive the Earned Premium hereon or the pro rata proportion of any Minimum Premium stipulated herein whichever is the greater.

Payment or tender of any Unearned Premium by the Underwriters shall not be a condition precedent to the effectiveness of Cancellation but such payment shall be made as soon as practicable.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

SERVICE OF SUIT CLAUSE (U.S.A.)

It is agreed that in the event of the failure of the Underwriters hereon to pay any amount claimed to be due hereunder, the Underwriters hereon, at the request of the Insured (or Reinsured), will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States.

It is further agreed that service of process in such suit may be made upon:

In Respects of California Risks:

Foley & Lardner LLP
555 California Street, Suite 1700
San Francisco, CA 94104-1520 USA

In Respects of Risks in All Other States:

Lloyd's America, Inc.
Attn: Legal Department
280 Park Avenue East Tower, 25th Floor
New York, NY 10017 USA

and that in any suit instituted against any one of them upon this contract, Underwriters will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of Underwriters in any such suit and/or upon the request of the Insured (or Reinsured) to give a written undertaking to the Insured (or Reinsured) that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, Underwriters hereon hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured (or Reinsured) or any beneficiary hereunder arising out of this contract of insurance (or reinsurance), and hereby designate the above-named as the person to whom the said officer is authorized to mail such process or a true copy thereof.

NMA1998

24/04/1986

WAR AND TERRORISM EXCLUSION ENDORSEMENT

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;

- (1) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- (2) any act of terrorism.
For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (1) and/or (2) above.

If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Assured.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

NMA2918
08/10/2001

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

STATE OF NEW YORK EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY

The following is added to Paragraph **2. Exclusions** of **COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and **COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY** of **SECTION I - COVERAGES**:

This insurance does not apply to “bodily injury”, “property damage” or “personal and advertising injury” arising out of any ongoing operations, completed operations, products or contractual obligations, whether or not the activities are or were conducted for you or others, in the state of New York.

All other terms and conditions of this policy remain unchanged.

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 03 00 01 96**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****DEDUCTIBLE LIABILITY INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

Coverage	SCHEDULE	
	Amount and Basis of Deductible PER CLAIM or PER OCCURRENCE	
Bodily Injury Liability OR	\$	\$
Property Damage Liability OR	\$	\$
Bodily Injury Liability and/or Property Damage Liability Combined	\$	\$ 5,000

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

APPLICATION OF ENDORSEMENT (Enter below any limitations on the application of this endorsement. If no limitation is entered, the deductibles apply to damages for all "bodily injury" and "property damage", however caused):

- A.** Our obligation under the Bodily Injury Liability and Property Damage Liability Coverages to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the Schedule above as applicable to such coverages.
- B.** You may select a deductible amount on either a per claim or a per "occurrence" basis. Your selected deductible applies to the coverage option and to the basis of the deductible indicated by the placement of the deductible amount in the Schedule above. The deductible amount stated in the Schedule above applies as follows:
- 1. PER CLAIM BASIS.** If the deductible amount indicated in the Schedule above is on a per claim basis, that deductible applies as follows:
 - a.** Under Bodily Injury Liability Coverage, to all damages sustained by any one person because of "bodily injury";
 - b.** Under Property Damage Liability Coverage, to all damages sustained by any one person because of "property damage"; or
 - c.** Under Bodily Injury Liability and/or Property Damage Liability Coverage Combined, to all damages sustained by any one person because of:
 - (1)** "Bodily injury";
 - (2)** "Property damage"; or
 - (3)** "Bodily injury" and "property damage" combined

as the result of any one "occurrence".

If damages are claimed for care, loss of services or death resulting at any time from "bodily injury", a separate deductible amount will be applied to each person making a claim for such damages.

With respect to "property damage", person includes an organization.

2. PER OCCURRENCE BASIS. If the deductible amount indicated in the Schedule above is on a "per occurrence" basis, that deductible amount applies as follows:

- a. Under Bodily Injury Liability Coverage, to all damages because of "bodily injury";
- b. Under Property Damage Liability Coverage, to all damages because of "property damage"; or
- c. Under Bodily Injury Liability and/or Property Damage Liability Coverage Combined, to all damages because of:
 - (1) "Bodily injury";
 - (2) "Property damage"; or
 - (3) "Bodily injury" and "property damage" combined

as the result of any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence".

C. The terms of this insurance, including those with respect to:

- 1. Our right and duty to defend the insured against any "suits" seeking those damages; and
- 2. Your duties in the event of an "occurrence", claim, or "suit"

apply irrespective of the application of the deductible amount.

D. We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

POLICY NUMBER: CSIEL01148-00

COMMERCIAL GENERAL LIABILITY
CG 04 35 12 07**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****EMPLOYEE BENEFITS LIABILITY COVERAGE****THIS ENDORSEMENT PROVIDES CLAIMS-MADE COVERAGE.
PLEASE READ THE ENTIRE ENDORSEMENT CAREFULLY.**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Coverage	Limit Of Insurance	Each Employee Deductible	Premium
Employee Benefits Programs	\$1,000,000 each employee	\$2,500	\$Included
	\$1,000,000 aggregate		
Retroactive Date:	02/01/2016		
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

A. The following is added to Section I – Coverages:**COVERAGE – EMPLOYEE BENEFITS LIABILITY****1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of any act, error or omission, of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any "claim" or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Paragraph D. (Section III – Limits Of Insurance); and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to damages only if:

- (1) The act, error or omission, is negligently committed in the "administration" of your "employee benefit program";
- (2) The act, error or omission, did not take place before the Retroactive Date, if any, shown in the Schedule nor after the end of the policy period; and
- (3) A "claim" for damages, because of an act, error or omission, is first made against any insured, in accordance with Paragraph c. below, during the policy period or an Extended Reporting Period we provide under Paragraph F. of this endorsement.

c. A "claim" seeking damages will be deemed to have been made at the earlier of the following times:

- (1) When notice of such "claim" is received and recorded by any insured or by us, whichever comes first; or

- (2) When we make settlement in accordance with Paragraph **a.** above.

A "claim" received and recorded by the insured within 60 days after the end of the policy period will be considered to have been received within the policy period, if no subsequent policy is available to cover the claim.

- d. All "claims" for damages made by an "employee" because of any act, error or omission, or a series of related acts, errors or omissions, including damages claimed by such "employee's" dependents and beneficiaries, will be deemed to have been made at the time the first of those "claims" is made against any insured.

2. Exclusions

This insurance does not apply to:

a. Dishonest, Fraudulent, Criminal Or Malicious Act

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

b. Bodily Injury, Property Damage, Or Personal And Advertising Injury

"Bodily injury", "property damage" or "personal and advertising injury".

c. Failure To Perform A Contract

Damages arising out of failure of performance of contract by any insurer.

d. Insufficiency Of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program".

e. Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation

Any "claim" based upon:

- (1) Failure of any investment to perform;
- (2) Errors in providing information on past performance of investment vehicles; or
- (3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

f. Workers' Compensation And Similar Laws

Any "claim" arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

g. ERISA

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

h. Available Benefits

Any "claim" for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

i. Taxes, Fines Or Penalties

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

j. Employment-Related Practices

Damages arising out of wrongful termination of employment, discrimination, or other employment-related practices.

B. For the purposes of the coverage provided by this endorsement:

1. All references to Supplementary Payments – Coverages **A** and **B** are replaced by Supplementary Payments – Coverages **A**, **B** and **Employee Benefits Liability**.
2. Paragraphs **1.b.** and **2.** of the Supplementary Payments provision do not apply.

C. For the purposes of the coverage provided by this endorsement, Paragraphs **2.** and **3.** of **Section II – Who Is An Insured** are replaced by the following:

2. Each of the following is also an insured:
 - a. Each of your "employees" who is or was authorized to administer your "employee benefit program".
 - b. Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.

- c. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Endorsement.
- 3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organization. However:
 - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
 - b. Coverage under this provision does not apply to any act, error or omission that was committed before you acquired or formed the organization.
- D. For the purposes of the coverage provided by this endorsement, **Section III – Limits Of Insurance** is replaced by the following:

1. Limits Of Insurance

- a. The Limits of Insurance shown in the Schedule and the rules below fix the most we will pay regardless of the number of:
 - (1) Insureds;
 - (2) "Claims" made or "suits" brought;
 - (3) Persons or organizations making "claims" or bringing "suits";
 - (4) Acts, errors or omissions; or
 - (5) Benefits included in your "employee benefit program".
- b. The Aggregate Limit is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".
- c. Subject to the Aggregate Limit, the Each Employee Limit is the most we will pay for all damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:
 - (1) An act, error or omission; or
 - (2) A series of related acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".

However, the amount paid under this endorsement shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program".

The Limits of Insurance of this endorsement apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations of the policy to which this endorsement is attached, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

2. Deductible

- a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in the Schedule as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.
- b. The deductible amount stated in the Schedule applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.
- c. The terms of this insurance, including those with respect to:
 - (1) Our right and duty to defend any "suits" seeking those damages; and
 - (2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or "claim"

apply irrespective of the application of the deductible amount.
- d. We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.
- E. For the purposes of the coverage provided by this endorsement, Conditions 2. and 4. of **Section IV – Commercial General Liability Conditions** are replaced by the following:
 - 2. **Duties In The Event Of An Act, Error Or Omission, Or "Claim" Or "Suit"**
 - a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a "claim". To the extent possible, notice should include:
 - (1) What the act, error or omission was and when it occurred; and

- (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

b. If a "claim" is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the "claim" or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the "claim" or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim" or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this endorsement, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below.

b. Excess Insurance

- (1) This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is effective prior to the beginning of the policy period shown in the Schedule of this insurance and that applies to an act, error or omission on other than a claims-made basis, if:

- (a) No Retroactive Date is shown in the Schedule of this insurance; or

- (b) The other insurance has a policy period which continues after the Retroactive Date shown in the Schedule of this insurance.

- (2) When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of the total amount that all such other insurance would pay for the loss in absence of this insurance; and the total of all deductible and self-insured amounts under all that other insurance.

- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Schedule of this endorsement.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limits of insurance to the total applicable limits of insurance of all insurers.

- F. For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added, or, if this endorsement is attached to a claims-made Coverage Part, replaces any similar Section in that Coverage Part:

EXTENDED REPORTING PERIOD

1. You will have the right to purchase an Extended Reporting Period, as described below, if:
 - a. This endorsement is canceled or not renewed; or
 - b. We renew or replace this endorsement with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
 - (2) Does not apply to an act, error or omission on a claims-made basis.
2. The Extended Reporting Period does not extend the policy period or change the scope of coverage provided. It applies only to "claims" for acts, errors or omissions that were first committed before the end of the policy period but not before the Retroactive Date, if any, shown in the Schedule. Once in effect, the Extended Reporting Period may not be canceled.
3. An Extended Reporting Period of five years is available, but only by an endorsement and for an extra charge.

You must give us a written request for the endorsement within 60 days after the end of the policy period. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- a. The "employee benefit programs" insured;
- b. Previous types and amounts of insurance;
- c. Limits of insurance available under this endorsement for future payment of damages; and
- d. Other related factors.

The additional premium will not exceed 100% of the annual premium for this endorsement.

The Extended Reporting Period endorsement applicable to this coverage shall set forth the terms, not inconsistent with this Section, applicable to the Extended Reporting Period, including a provision to the effect that the insurance afforded for "claims" first received during such period is excess over any other valid and collectible insurance available under policies in force after the Extended Reporting Period starts.

4. If the Extended Reporting Period is in effect, we will provide an extended reporting period aggregate limit of insurance described below, but only for claims first received and recorded during the Extended Reporting Period.

The extended reporting period aggregate limit of insurance will be equal to the dollar amount shown in the Schedule of this endorsement under Limits of Insurance.

Paragraph **D.1.b.** of this endorsement will be amended accordingly. The Each Employee Limit shown in the Schedule will then continue to apply as set forth in Paragraph **D.1.c.**

- G. For the purposes of the coverage provided by this endorsement, the following definitions are added to the **Definitions** Section:

1. "Administration" means:
 - a. Providing information to "employees", including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
 - b. Handling records in connection with the "employee benefit program"; or
 - c. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program".

However, "administration" does not include handling payroll deductions.

2. "Cafeteria plans" means plans authorized by applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.
3. "Claim" means any demand, or "suit", made by an "employee" or an "employee's" dependents and beneficiaries, for damages as the result of an act, error or omission.

4. "Employee benefit program" means a program providing some or all of the following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:
 - a. Group life insurance, group accident or health insurance, dental, vision and hearing plans, and flexible spending accounts, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
 - b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;
 - c. Unemployment insurance, social security benefits, workers' compensation and disability benefits;
 - d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies; and
 - e. Any other similar benefits designated in the Schedule or added thereto by endorsement.
- H. For the purposes of the coverage provided by this endorsement, Definitions 5. and 18. in the **Definitions** Section are replaced by the following:
 5. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
 18. "Suit" means a civil proceeding in which damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:
 - a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

Policy Number: CSIEL01148-00

COMMERCIAL GENERAL LIABILITY
CG 20 01 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

Policy Number: CSIEL01148-00

**COMMERCIAL
GENERAL LIABILITY
CG 20 10 07 04**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Any person(s) or organization(s) whom the Named Insured agrees, in a written contract, to name as an Additional insured. However, this status exists only for the project specified in that contract.	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;
in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

Policy number: CSIEL01148-00

**COMMERCIAL
GENERAL LIABILITY
CG 20 37 07 04**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
Any person(s) or organization(s) whom the Named Insured agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products- completed operations hazard".

**COMMERCIAL GENERAL LIABILITY
CG 24 04 10 93**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the Named Insured agrees, in a written contract. However, this status exists only for the project specified in that contract.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section **IV** – COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**MICROBIAL CONDITIONS COVERAGE EXTENSION**

This endorsement modifies insurance provided under the following:

CONTRACTORS POLLUTION LIABILITY

The following is added to **Section I – COVERAGES, Item 1. INSURING AGREEMENT:**

MICROBIAL CONDITIONS

- A. We will pay those sums that the insured becomes legally obligated to pay as **damages** because of **bodily injury** or **property damage** in excess of the deductible or self-insured retention, resulting from **microbial conditions** to which this insurance applies. We will have the right and duty to defend the insured against any suit seeking those **damages**. However, we will have no duty to defend the insured against any suit seeking **damages** to which this insurance does not apply. We may, at our discretion, investigate any **microbial conditions** and settle any claim or suit that may result. But:
- (1) The amount we will pay for **damages** is limited as described in the **Schedule** below; and
 - (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.
- B. This insurance applies to **bodily injury** and **property damage** to the extent caused by **microbial conditions** only if:
- (1) The **bodily injury** or **property damage** is caused by a **microbial condition** that takes place in the coverage territory and is caused by an **occurrence**;
 - (2) The **bodily injury** or **property damage** first occurs during the policy period; and
 - (3) The **bodily injury** or **property damage** arises out of your work.

SCHEDULED LIMIT OF LIABILITY & DEDUCTIBLE

LIMITS OF INSURANCE AND DEDUCTIBLE	
Each Microbial Condition Limit	\$1,000,000
Aggregate Limit	\$2,000,000
Deductible	\$10,000

For the purpose of this endorsement:

Our obligation to pay **damages** on your behalf applies only to the amount of **damages** in excess of any deductible amount shown in the Schedule of this endorsement as applicable to such coverage.

The Limits of Insurance applicable to Each Microbial Condition or Aggregate for such coverages are not reduced by the amount of the deductible. Moreover, the Limit of Insurance shown in the Schedule above, is included within, and not in addition to, the applicable Each Pollution Condition and Aggregate Limit shown in the Declarations.

For purposes of this endorsement:

Microbial Condition means any actual or alleged discharge, dispersal, release or escape of any fungus or spore or any substance, vapor or gas produced by or arising out of any fungus or spore, into or upon land or structures thereupon, the atmosphere or any watercourse or body of water, which results in **bodily injury** or **property damage**.

For the purpose of this definition:

(1) Fungus includes, but is not limited to:

- (a) Any form or type of mold, mushroom or mildew;
- (b) Any other fungal structure; and
- (c) Any volatile organic compounds, mycotoxins, allergenic proteins or other substances or gases produced by or arising out of any mold, mushroom, mildew, fungal structure or spore.

(2) Spore means any reproductive body produced by or arising out of any fungus.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS
(BLANKET) ENDORSEMENT**

This endorsement modifies insurance provided under the following:

CONTRACTORS POLLUTION LIABILITY

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Automatic status as required in written contract or agreement with you.	

- (1) **Section III – WHO IS AN INSURED** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed by that insured.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to **bodily injury** or **property damage** occurring after:

- A. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- B. That portion of **your work** out of which the **bodily injury** or **property damage** arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NON-OWNED DISPOSAL SITE LIABILITY COVERAGE ENDORSEMENT (BLANKET)

This endorsement modifies insurance provided under the following:

CONTRACTORS POLLUTION LIABILITY

THIS IS A CLAIMS-MADE ENDORSEMENT AND APPLIES ONLY TO CLAIMS FIRST MADE AGAINST YOU AND REPORTED, DURING THE POLICY PERIOD.

SCHEDULED LIMIT of LIABILITY & DEDUCTIBLE

LIMITS OF INSURANCE AND DEDUCTIBLE	
Each Pollution Condition Limit	\$1,000,000
Aggregate Limit	\$2,000,000
Deductible	\$10,000
Retroactive Date	2/10/2024

In consideration of the premium paid, the following is added to **Section I – COVERAGES, Item 1. INSURING AGREEMENT:**

- A. We will pay those sums that you become legally obligated to pay as **damages** because of **bodily injury or property damage** in excess of the deductible or self-insured retention resulting from **pollution conditions** arising from your liability as a result of your disposal of wastes or waste materials at a **Non-owned Disposal Site** to which this insurance applies. We will have the right and duty to defend you against any **suit** seeking those **damages**. However, we will have no duty to defend you against any **suit** seeking **damages** to which this insurance does not apply. We may, at our discretion, investigate any **pollution condition** and settle any **claim** or **suit** that may result. But:
- (1) The **pollution condition** must commence after the Retroactive Date shown and before the end of the policy period; and
 - (2) The **claim** or **suit** is first made against you and reported to the Company during the policy period or any Extended Reporting Period. A **suit** by a person or organization seeking **damages** will be deemed to have been made at the earlier of the following: a) when written notice of such **claim** or **suit** is received by you or b) When we settle a **claim** or **suit** in accordance with the paragraph below.
 - (3) The amount we pay for **damages** applicable to this endorsement is limited as described in the Schedule above;
 - (4) Our right and duty to defend ends when we have exhausted the applicable Limit of Liability by the payment of judgments, settlements or expenses under all Insuring Agreement or the payment of any **claims expenses** which reduce the Limit of Liability.

We have the right and duty to assume the adjustment, defense and settlement of any **claim** to which this insurance applies. However, we will have no duty to defend you against any **suit** seeking **damages** for **bodily injury** or **property damage** that result from a **pollution condition** at, on, under, or emanating from locations to which this insurance does not apply.

All **claims** for **damages** to the same person, including **damages** claimed by any person or organization for care, loss of services or death resulting at any time, will be deemed to have been made at the time the first of those **claims** is made against you.

- B.** For the purpose of this Endorsement, **Section II - DEFINITIONS, Definition O.** is deleted in its entirety and replaced with the following:

O. Non-owned Disposal Site means a facility or site that is used for treatment, transfer, landfill, storage or disposal of any pollutants which is not owned, operated, leased or maintained by the named insured or affiliated entity, and:

- (1) Was licensed in the state in which they operate;
- (2) Was in compliance with the requirements of Title 40 of the United States Code of Federal Regulations and any similar or comparable State regulations; or
- (3) Was not listed on the National Priorities List or any similar or comparable state list

- C.** For the purpose of this Endorsement, upon cancellation or non-renewal of this policy or if coverage provided by this endorsement is deleted, the following Extended Reporting Period applies:

1. Automatic Extended Reporting Period:

You shall be entitled to a thirty (30) day Automatic Extended Reporting Period for no additional premium, commencing on the last day of the policy period, subject to the following terms and conditions:

- (a) The Automatic Extended Reporting Period shall apply to a **claim** first made against you during the policy period and reported in writing by you to the Company during the Automatic Extended Reporting Period and otherwise covered by this Policy.
- (b) The Automatic Extended Reporting Period shall also apply to a **claim** first made against you during the Automatic Extended Reporting Period, resulting **pollution condition** first discovered and reported in writing by you to the Company during the policy period and otherwise covered by this Policy. In this case, the **claim** shall be deemed to have been made against you on the last day of the policy period.
- (c) The Automatic Extended Reporting Period shall also apply to any **pollution condition** first discovered by you during the policy period and reported in writing by you to the Company within the Automatic Extended Reporting Period and otherwise covered under this Policy.
- (d) The Automatic Extended Reporting period does not increase or reinstate the Limits of Insurance.

The thirty (30) day Automatic Extended Reporting Period does not apply where:

- (1) This Policy is terminated for fraud, misrepresentation or non-payment of premium;
or
- (2) You have purchased other insurance to replace this Policy, which provides coverage for a **claim** and/or **pollution condition**.

2. Supplemental Extended Reporting Period:

You shall be entitled to purchase a Supplemental Extended Reporting Period subject to the following terms and conditions:

- (a) The Supplemental Extended Reporting Period of twelve (12) months duration is available, but only by an endorsement and for an extra charge. This supplemental period starts when the Basic Extended Reporting Period, set forth in Paragraph 1. above, ends.

Subject to a minimum premium, the additional premium for any Supplemental Extended Reporting Period will not exceed 100% of the policy premium stated in the Declarations.

You must provide a written request to purchase this Supplemental Extended Reporting Period within thirty (30) days from the last day of the policy period. The Automatic Extended Reporting Period of thirty (30) days will be merged into this period and is not in addition to this period.

- (b) The Supplemental Extended Reporting Period shall only apply to a **claim** first made against you during the Supplemental Extended Reporting Period, resulting from any **pollution condition** first discovered and reported by you in writing to the Company, during the policy period and otherwise covered by this Policy.
- (c) The Supplemental Extended Reporting Period does not increase or reinstate the Limits of Insurance.

The Supplemental Extended Reporting Period does not apply where:

- (1) This Policy is terminated for fraud, misrepresentation or non-payment of premium;
or
- (2) You have purchased other insurance to replace this Policy, which provides coverage for a **claim** and/or **pollution condition**.

It is a condition precedent to the operation of the rights granted under Item B. Supplemental Extended Reporting Period as referenced above that payment of the appropriate premium shall be made not later than thirty (30) days after expiration of this Policy in the case of non-renewal.

- D. For the purpose of this Endorsement, the Limit of Liability and Deductible identified in the Scheduled Limits of Liability, above, are included within the Limit of Liability and Deductible identified in the Declarations. This endorsement does not increase or reinstate the Limits of Insurance.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

CONTRACTORS POLLUTION LIABILITY

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
PuroSystems, LLP and its subsidiaries, affiliates, officers, managers, members, employee successors, assigns and agents.	All PuroSystems, LLP work assignments made to the insured in accordance with the PuroSystems, LLP Agreement to Provide Services.

Section III – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for **bodily injury or property damage** caused, in whole or in part, by **your work** at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the **products-completed operations hazard**.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CLAIM EXPENSE IN ADDITION TO LIMIT (CAPPED) ENDORSEMENT

This endorsement modifies insurance provided under the following:

CONTRACTORS POLLUTION LIABILITY

In consideration of the premium paid, it is agreed that payments of **Claim Expenses** up to the amount of **\$1,000,000** (**Additional Claim Expense Limits of Liability**), shall be in addition to the Policy's original Aggregate Limits of Liability shown in the Declarations of the Policy. The **Additional Claim Expense Limits of Liability** shall apply on an aggregate basis for all **claims**. Upon exhaustion of the **Additional Claim Expense Limits of Liability**, any additional **claim expenses** shall be a part of **damages** and reduce, and may potentially exhaust, the original Aggregate Limits of Liability shown in the Declarations of the Policy. **Claim Expenses** are not included within and will not serve to reduce the **Additional Claim Expense Limits of Liability**, or our original Aggregate Limits of Liability until **claim expenses** or **damages** exceeds the Deductible. Payment of **claim expenses** shall cease when **damages** exceed 100% of the original Aggregate Limits of Liability shown in the Declarations of the Policy.

The **Additional Claim Expense Limits of Liability** and the original Aggregate Limits of Liability shown in the Declarations of the Policy are the most we shall pay for all **claim expenses** covered under this Policy subject to such Aggregate Limits of Liability being the most we will pay for all **damages** (including **claim expenses** upon exhaustion of the **Additional Claim Expense Limits of Liability**) covered under this Policy.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CLAIM EXPENSE IN ADDITION TO LIMIT (CAPPED) ENDORSEMENT

This endorsement modifies insurance provided under the following:

PROFESSIONAL LIABILITY

In consideration of the premium paid, it is agreed that payments of **Claim Expenses** up to the amount of **\$1,000,000** (**Additional Claim Expense Limits of Liability**), shall be in addition to the Policy's original Aggregate Limits of Liability shown in the Declarations of the Policy. The **Additional Claim Expense Limits of Liability** shall apply on an aggregate basis for all **claims**. Upon exhaustion of the **Additional Claim Expense Limits of Liability**, any additional **claim expenses** shall be a part of **damages** and reduce, and may potentially exhaust, the original Aggregate Limits of Liability shown in the Declarations of the Policy. **Claim Expenses** are not included within and will not serve to reduce the **Additional Claim Expense Limits of Liability**, or our original Aggregate Limits of Liability until **claim expenses** or **damages** exceeds the Deductible. Payment of **claim expenses** shall cease when **damages** exceed 100% of the original Aggregate Limits of Liability shown in the Declarations of the Policy.

The **Additional Claim Expense Limits of Liability** and the original Aggregate Limits of Liability shown in the Declarations of the Policy are the most we shall pay for all **claim expenses** covered under this Policy subject to such Aggregate Limits of Liability being the most we will pay for all **damages** (including **claim expenses** upon exhaustion of the **Additional Claim Expense Limits of Liability**) covered under this Policy.

All other terms and conditions of this policy remain unchanged.



COMMERCIAL LINES POLICY

THIS POLICY IS NOT OBTAINED PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

THIS POLICY CONSISTS OF:

- Declaration;
- Common Policy Conditions; and
- One or more Coverage Parts. A Coverage Part consists of:
 - One or more Coverage Forms; and
 - Applicable Forms and Endorsements.

Key Risk Insurance Company has caused this policy to be signed by a duly authorized representative of the Company. Acceptance of this Policy by the insured constitutes acceptance of all its terms.

A handwritten signature in black ink, appearing to read "John V. Lee", written over a horizontal line.

Secretary

A handwritten signature in black ink, appearing to read "William B. Smith", written over a horizontal line.

President and CEO

Administrative Office:

Two Ravinia Drive, Suite 1100, Atlanta, GA 30346 - Telephone (404) 443-2040 Facsimile (404) 443-2050

Service Office:

101 Hudson Street, Suite 2550, Jersey City, NJ 07302 - Telephone (201) 748-3100 Facsimile (201) 748-3040



BerkleyEnvironmental

| a Berkley Company

REPORTING A CLAIM



AUTOMOBILE CLAIMS

E-MAIL:

autoclaims@berkleyenvironmental.com

CALL:

(800) 259-2560

ONLINE:

berkleyenvironmental.com/request-access

MAIL:

101 Hudson Street
25th Floor, Suite 2550
Jersey City, NJ 07302

WORKER'S COMPENSATION CLAIMS

E-MAIL:

workcompclaims@berkleyenvironmental.com

CALL:

(800) 259-2560

ONLINE:

berkleyenvironmental.com/request-access

MAIL:

101 Hudson Street
25th Floor, Suite 2550
Jersey City, NJ 07302

GENERAL, ENVIRONMENTAL, PROFESSIONAL & EXCESS LIABILITY CLAIMS

E-MAIL:

liabilityclaims@berkleyenvironmental.com

CALL:

(800) 259-2560

MAIL:

101 Hudson Street
25th Floor, Suite 2550
Jersey City, NJ 07302

UPLOAD:

Submit Supporting Documents
<https://bit.ly/3zio5XE>

For Assistance call (469) 802-4289 or email claimshelp@berkleyenvironmental.com

HAVE A SPILL? WE CAN ASSIST. *

In the event of a spill and/or release, The Berkley Environmental Support Team* (BEST) is available to assist you with the cleanup process. We offer **FREE** support services to help you navigate the complicated circumstances of an environmental spill and/or release. Please make sure to report your claim as described in your policy. Remember, reporting a spill and/or release to BEST does not constitute the reporting of a claim, pursuant to the terms and conditions of your policy.

WE CAN HELP YOU:

- Find a contractor to be dispatched within 2 hours of a spill
- Filing of any agency or regulatory spill notifications
- Emergency responder – our network includes nationwide services including remote locations

Call us at (877) 900-5645 (24 hours a day, 7 days per week) to receive the assistance you need with cleaning up your environmental spills and releases.

* Using the BEST service does not replace reporting a claim nor does it confirm coverage. This is a value-added service regardless of coverage.

THE MATERIAL IN THIS PUBLICATION IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO BE A REPRESENTATION OF COVERAGE THAT MAY EXIST IN ANY PARTICULAR SITUATION UNDER A POLICY ISSUED BY A MEMBER COMPANY OF BERKLEY ENVIRONMENTAL OR ITS AFFILIATES. ALL CONDITIONS OF COVERAGE, TERMS AND LIMITATIONS ARE DEFINED AND PROVIDED FOR IN THE POLICY. PROGRAMS OR PRODUCTS MAY NOT BE AVAILABLE IN ALL STATES AND POLICY FEATURES MAY VARY BY STATE.

BUSINESS AUTO COVERAGE FORM DECLARATIONS
KEY RISK INSURANCE COMPANY

ITEM ONE.

Policy Number: BAP2017172-18

Renewal BAP2017172-17

INSURED'S NAME AND ADDRESS

Patriot Services, Inc.
3041 Vail Avenue
Commerce, CA 90040

PRODUCER'S NAME AND ADDRESS

AmWins Program Underwriters, Inc.
1250 Camp Hill ByPass, Ste 104
Camp Hill, PA 17011
(717) 214-2800
Producer No.: 50003000

POLICY PERIOD: From: February 10, 2024 To: February 10, 2025
At 12:01 a.m. Standard Time at your mailing address shown above.

FORM OF BUSINESS:

Corporation

AUDIT PERIOD (If Applicable):

☐ Annually ☐ Semi-Annually ☐ Quarterly ☐ Monthly

NAME AND ADDRESS OF ADMINISTRATIVE OFFICE:

Key Risk Insurance Company
Two Ravinia Drive, Suite 1100
Atlanta, GA 30346-2104
Phone No.: (404) 443-2040

ITEM TWO.
SCHEDULE OF COVERAGES AND COVERED AUTOS

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos". "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the COVERED AUTO Section of the Business Auto Coverage Form next to the name of the coverage.

Coverages and Limits (The most we will pay for one accident or loss)	Covered Autos (Entry of one or more of the symbols from the Covered Autos Section of the Business Auto Coverage Form shows which autos are covered autos.)	Premium
Liability Limit = \$ 1,000,000	7, 8, 9	\$45,933
Personal Injury Protection (or equivalent No-Fault Coverage) Limit = Stated in each PIP Endorsement Minus \$ deductible	N/A	N/A
Added Personal Injury Protection (or equivalent No-Fault Coverage) Limit = Stated in each Added PIP Endorsement	N/A	N/A
Extraordinary Medical Benefits Limit = Stated in each Extraordinary Medical Benefit Endorsement	N/A	N/A

Coverages and Limits (The most we will pay for one accident or loss)	Covered Autos (Entry of one or more of the symbols from the Covered Autos Section of the Business Auto Coverage Form shows which autos are covered autos.)	Premium
Auto Medical Payments Limit = \$ 5,000	7	\$1,040
Uninsured Motorists Limit = \$ SEE SCHEDULE	7	\$696
Supplementary Uninsured Motorists Limit = \$ Rejected		
Underinsured Motorists (When not included in Uninsured Motorists Coverage) Limit = \$	N/A	N/A
Physical Damage - Comprehensive Coverage Limit = Actual Cash Value or Cost of Repair, whichever is less minus \$SEE SCHEDULE deductible for each covered auto but no deductible applies to loss caused by fire or lightning. See Item Four for Hired or Borrowed "Autos".	7, 8	\$1,489
Specified Causes of Loss Coverage Limit = Actual Cash Value or Cost of Repair, whichever is less, minus \$ _____ deductible for each covered auto. See Item Four for Hired or Borrowed "Autos".	N/A	N/A
Physical Damage - Collision Coverage Limit = Actual Cash Value or Cost of Repair, whichever is less minus \$SEE SCHEDULE deductible for each covered auto. See Item Four for Hired or Borrowed "Autos".	7, 8	\$10,258
Physical Damage - Towing and Labor \$ _____ For Each Disablement of a Private Passenger Auto, Light Truck or Medium Truck	N/A	N/A

State Surcharges (if applicable):**Premium for Endorsements:** \$1,738.00*** Estimated Total Premium:** \$61,154.00

(* This policy may be subject to final audit.)

Endorsements attached to this Coverage Form: See *BENV CA 05 (Schedule of Forms and Endorsements)*

ITEM THREE.
SCHEDULE OF COVERED AUTOS YOU OWN

IF THIS POLICY IS COMPOSITE RATED, PLEASE SEE ENDORSEMENT BENV CA 04 FOR DETAILS.

Veh No.	State	Territory	Year	Description	Serial Number	Class Code
1	CA	112	2013	MACK 800 GU800 Straight Truck	1M2AX13C8DM018364	40453
2	CA	112	2015	FORD F250 SUPER DUTY Pickup	1FTBF2A62FEC36165	01499
3	CA	112	2008	AUTOCAR LLC XPEDITOR WX Straight Truck	5VCDC6JF08H206689	40453
4	CA	112	2000	VOLVO XPEDITOR WX Straight Truck	4V2DC2HE2YN787081	50453
5	CA	112	2000	VOLVO XPEDITOR WX Straight Truck	4V2DC2HE4YN787082	50453
6	CA	112	2019	FORD F450 SUPER DUTY CAB CHASSIS	1FDUF4GY2KDA27663	23453
7	CA	112	2017	PETERBILT 320 STRAIGHT TRUCK	3BPZLH0X2HF107980	40453
8	CA	112	2012	DODGE RAM 5500 ST CAB CHASSIS	3C7WDMCL6CG194600	23453

Coverages – Premium, Limits and Deductibles (Absence of a deductible or limit entry in any column below means that the limit or deductible entry in the corresponding ITEM TWO column applies instead)

Veh No.	Liability		P.I.P.		Added P.I.P.
	Limit	Premium	Limit stated in each P.I.P. End. minus deductible shown below	Premium	Limit stated in each Added P.I.P. End. Premium
1	\$1,000,000	\$6,928	N/A	N/A	N/A
2	\$1,000,000	\$2,135	N/A	N/A	N/A
3	\$1,000,000	\$6,928	N/A	N/A	N/A
4	\$1,000,000	\$7,451	N/A	N/A	N/A
5	\$1,000,000	\$7,451	N/A	N/A	N/A
6	\$1,000,000	\$4,056	N/A	N/A	N/A
7	\$1,000,000	\$6,928	N/A	N/A	N/A
8	\$1,000,000	\$4,056	N/A	N/A	N/A

Coverages – Premium, Limits and Deductibles (Absence of a deductible or limit entry in any column below means that the limit or deductible entry in the corresponding ITEM TWO column applies instead)

Veh No.	Extra Medical Benefits	Auto Medical Payments		Supplementary Uninsured Motorists		Uninsured Motorists		Underinsured Motorists	
	Stated in each Extraordinary Medical Benefit End. Premium	Limit	Premium	Limit	Premium	Limit	Premium	Limit	Premium
1	N/A	\$5,000	\$130	N/A	N/A	\$350,000	\$87	N/A	N/A
2	N/A	\$5,000	\$130	N/A	N/A	\$350,000	\$87	N/A	N/A
3	N/A	\$5,000	\$130	N/A	N/A	\$350,000	\$87	N/A	N/A
4	N/A	\$5,000	\$130	N/A	N/A	\$350,000	\$87	N/A	N/A
5	N/A	\$5,000	\$130	N/A	N/A	\$350,000	\$87	N/A	N/A
6	N/A	\$5,000	\$130	N/A	N/A	\$350,000	\$87	N/A	N/A
7	N/A	\$5,000	\$130	N/A	N/A	\$350,000	\$87	N/A	N/A
8	N/A	\$5,000	\$130	N/A	N/A	\$350,000	\$87	N/A	N/A

Coverages – Premium, Limits and Deductibles (Absence of a deductible or limit entry in any column below means that the limit or deductible entry in the corresponding ITEM TWO column applies instead)

Veh. No.	Cost New	Stated Amount	Comprehensive		Collision	
			Deductible	Premium	Deductible	Premium
1	\$163,000		\$3,000	\$207	\$3,000	\$1,563
2	\$41,117		\$1,000	\$111	\$1,000	\$425
3	\$180,000		\$3,000	\$227	\$3,000	\$1,792
4	\$115,000		\$3,000	\$144	\$3,000	\$887

5	\$115,000		\$3,000	\$144	\$3,000	\$887
6	\$43,335		\$3,000	\$148	\$3,000	\$544
7	\$221,474		\$3,000	\$415	\$3,000	\$3,820
8	\$50,960		\$3,000	\$93	\$3,000	\$340

Veh No.	Loss Payees
1	People's United Equipment Finance Corp 10715 David Taylor Drive, Ste. 55 Charlotte, NC 28262
4	J P Morgan Chase Bank PO Box 6026 Chicago, IL 60680
5	J P Morgan Chase Bank PO Box 6026 Chicago, IL 60680
6	Ford Motor Credit Company 260 Interstate N Parkway NW Atlanta, GA 30339
7	People's United Equipment Finance Corp 10715 David Taylor Drive, Ste. 55 Charlotte, NC 28262

ITEM FOUR.
SCHEDULE OF HIRED OR BORROWED COVERED AUTO COVERAGE AND PREMIUMS

Liability Coverage – Rating Basis, Cost of Hire			
State	Estimated Cost of Hire for Each State	Rate Per Each \$100 Cost of Hire	Premium
CA	If Any - Excess Basis	INC	\$450.00
Total Premium:			\$450.00

Cost of hire means the total amount you incur for the hire of “autos” you don't own (not including “autos” you borrow or rent from your employees or their family members). Cost of hire does not include charges for services performed by motor carriers of property or passengers.

Physical Damage Coverage				
Coverages	Limit of Insurance The Most We Will Pay Deductible	Estimated Annual Cost of Hire	Rate Per Each \$100 Annual Cost of Hire	Premium
Comprehensive	Actual Cash Value or Cost of Repairs or \$100,000 whichever is less minus \$100 deductible for each covered auto but no deductible applies to loss caused by fire or lightning.	If Any	INC	\$294.00
Collision	Actual Cash Value or Cost of Repairs or \$100,000 whichever is less minus \$1,000 deductible for each covered auto.	If Any	INC	\$294.00

PHYSICAL DAMAGE COVERAGE for covered “autos” you hire or borrow is excess unless indicated below by “ ☒ ”.

☐ If this box is checked, PHYSICAL DAMAGE COVERAGE applies on a direct primary basis and for purposes of the condition entitled OTHER INSURANCE, any covered “auto” you hire or borrow is deemed to be a covered “auto” you own.

ITEM FIVE.
SCHEDULE FOR NON-OWNERSHIP LIABILITY

Rating Basis	Number	Premium
Number of Employees	4	\$450
Number of Partners		
Number of Volunteers		

Countersigned: _____ By: _____
Issue Date: February 20, 2024 (Authorized Representative)

SCHEDULE OF FORMS AND ENDORSEMENTS**Policy Number:** BAP2017172-18**Named Insured:** Patriot Services, Inc.**FORMS ATTACHED TO AND MADE A PART OF THIS POLICY AT INCEPTION:**

FORM NUMBER		FORM TITLE
KRICCA	09/2017	Commercial Lines Policy Jacket - KRIC
ENV DIR CLAIM	09/2023	Policyholder Notice - Claim Reporting Information
BAP DEC KRIC	03/2023	Business Auto Declarations
BENV CA 05	09/2017	Schedule of Forms and Endorsements
IL 00 17	11/1998	Common Policy Conditions
IL 00 21	09/2008	Nuclear Energy Liability Exclusion Endorsement (Broad Form)
IL 02 70	07/2020	California Changes - Cancellation and Nonrenewal
CA 00 01	10/2013	Business Auto Coverage Form
BENV CA 03	09/2017	Named Insured Endorsement
BENV CA 06	09/2017	Business Auto - Additional Insured When Required By Contract Or Agreement
BENV CA 14	01/2023	Cancellation for Non-payment of Audit Premium
CA 01 43	10/2013	California Changes
CA 04 24	10/2013	California Auto Medical Payments Coverage
CA 21 54	10/2013	California Uninsured Motorists Coverage - Bodily Injury
CA 21 55	10/2013	California Uninsured Motorists Coverage - Property Damage
CA 23 05	10/2013	Wrong Delivery of Liquid Products
CA 99 44	10/2013	Loss Payable Clause
OFAC NOTICE	02/2016	Policyholder Notice Office Of Foreign Asset Control (OFAC)

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT

(Broad Form)

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage":

- (1)** With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2)** Resulting from the "hazardous properties" of "nuclear material" and with respect to which **(a)** any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or **(b)** the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:

- (1)** The "nuclear material" **(a)** is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or **(b)** has been discharged or dispersed therefrom;
- (2)** The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
- (3)** The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion **(3)** applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material **(a)** containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a)** Any "nuclear reactor";
- (b)** Any equipment or device designed or used for **(1)** separating the isotopes of uranium or plutonium, **(2)** processing or utilizing "spent fuel", or **(3)** handling, processing or packaging "waste";

(c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALIFORNIA CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Paragraphs 2. and 3. of the Cancellation Common Policy Condition are replaced by the following:

2. All Policies In Effect For 60 Days Or Less

If this policy has been in effect for 60 days or less, and is not a renewal of a policy we have previously issued, we may cancel this policy by mailing or delivering to the first Named Insured, at the mailing address shown in the policy, and to the producer of record, advance written notice of cancellation, stating the reason for cancellation, at least:

a. 10 days before the effective date of cancellation if we cancel for:

(1) Nonpayment of premium; or

(2) Discovery of fraud by:

(a) Any insured or his or her representative in obtaining this insurance; or

(b) You or your representative in pursuing a claim under this policy.

b. 30 days before the effective date of cancellation if we cancel for any other reason.

3. All Policies In Effect For More Than 60 Days

a. If this policy has been in effect for more than 60 days, or is a renewal of a policy we issued, we may cancel this policy only upon the occurrence, after the effective date of the policy, of one or more of the following:

(1) Nonpayment of premium, including payment due on a prior policy we issued and due during the current policy term covering the same risks.

(2) Discovery of fraud or material misrepresentation by:

(a) Any insured or his or her representative in obtaining this insurance; or

(b) You or your representative in pursuing a claim under this policy.

(3) A judgment by a court or an administrative tribunal that you have violated a California or Federal law, having as one of its necessary elements an act which materially increases any of the risks insured against.

- (4) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by you or your representative, which materially increase any of the risks insured against.
- (5) Failure by you or your representative to implement reasonable loss control requirements, agreed to by you as a condition of policy issuance, or which were conditions precedent to our use of a particular rate or rating plan, if that failure materially increases any of the risks insured against.
- (6) A determination by the Commissioner of Insurance that the:
 - (a) Loss of, or changes in, our reinsurance covering all or part of the risk would threaten our financial integrity or solvency; or
 - (b) Continuation of the policy coverage would:
 - (i) Place us in violation of California law or the laws of the state where we are domiciled; or
 - (ii) Threaten our solvency.
- (7) A change by you or your representative in the activities or property of the commercial or industrial enterprise, which results in a materially added, increased or changed risk, unless the added, increased or changed risk is included in the policy.
- b. We will mail or deliver advance written notice of cancellation, stating the reason for cancellation, to the first Named Insured, at the mailing address shown in the policy, and to the producer of record, at least:
 - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium or discovery of fraud; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason listed in Paragraph 3.a.

B. The following provision is added to the **Cancellation** Common Policy Condition:

7. Residential Property

This provision applies to coverage on real property which is used predominantly for residential purposes and consisting of not more than four dwelling units, and to coverage on tenants' household personal property in a residential unit, if such coverage is written under one of the following:

Commercial Property Coverage Part

Farm Coverage Part – Farm Property – Farm Dwellings, Appurtenant Structures And Household Personal Property Coverage Form

- a. If such coverage has been in effect for 60 days or less, and is not a renewal of coverage we previously issued, we may cancel this coverage for any reason, except as provided in **b.** and **c.** below.
- b. We may not cancel this policy solely because the first Named Insured has:
 - (1) Accepted an offer of earthquake coverage; or
 - (2) Cancelled or did not renew a policy issued by the California Earthquake Authority (CEA) that included an earthquake policy premium surcharge.

However, we shall cancel this policy if the first Named Insured has accepted a new or renewal policy issued by the CEA that includes an earthquake policy premium surcharge but fails to pay the earthquake policy premium surcharge authorized by the CEA.

- c. We may not cancel such coverage solely because corrosive soil conditions exist on the premises. This restriction (**c.**) applies only if coverage is subject to one of the following, which exclude loss or damage caused by or resulting from corrosive soil conditions:
 - (1) Commercial Property Coverage Part – Causes Of Loss – Special Form; or
 - (2) Farm Coverage Part – Causes Of Loss Form – Farm Property, Paragraph **D.** Covered Causes Of Loss – Special.

d. If a state of emergency under California Law is declared and the residential property is located in any ZIP Code within or adjacent to the fire perimeter, as determined by California Law, we may not cancel this policy for one year, beginning from the date the state of emergency is declared, solely because the dwelling or other structure is located in an area in which a wildfire has occurred. However, we may cancel:

- (1) When you have not paid the premium, at any time by letting you know at least 10 days before the date cancellation takes effect;
- (2) If willful or grossly negligent acts or omissions by the Named Insured, or his or her representatives, are discovered that materially increase any of the risks insured against; or
- (3) If there are physical changes in the property insured against, beyond the catastrophe-damaged condition of the structures and surface landscape, which result in the property becoming uninsurable.

C. The following is added and supersedes any provisions to the contrary:

Nonrenewal

1. Subject to the provisions of Paragraphs **C.2.** and **C.3.** below, if we elect not to renew this policy, we will mail or deliver written notice, stating the reason for nonrenewal, to the first Named Insured shown in the Declarations, and to the producer of record, at least 60 days, but not more than 120 days, before the expiration or anniversary date.

We will mail or deliver our notice to the first Named Insured, and to the producer of record, at the mailing address shown in the policy.

2. Residential Property

This provision applies to coverage on real property used predominantly for residential purposes and consisting of not more than four dwelling units, and to coverage on tenants' household property contained in a residential unit, if such coverage is written under one of the following:

Commercial Property Coverage Part

Farm Coverage Part – Farm Property – Farm Dwellings, Appurtenant Structures And Household Personal Property Coverage Form

a. If this policy provides coverage as described in the preceding paragraph, and we elect not to renew this policy, we will mail or deliver written notice, stating the reason for nonrenewal, to the first Named Insured shown in the Declarations, and to the producer of record, at the mailing address shown in the policy, at least 75 days, but not more than 120 days, before the expiration or anniversary date.

If we fail to give the first Named Insured shown in the Declarations notice of nonrenewal at least 75 days prior to the policy expiration, as required in the paragraph above, this policy, with no change in its terms and conditions, shall remain in effect for 75 days from the date that the notice of nonrenewal is delivered or mailed to the Named Insured. A notice to this effect shall be provided by us to the first Named Insured with the notice of nonrenewal.

- b. We may elect not to renew such coverage for any reason, except as provided in Paragraphs **c.**, **d.** and **e.** below.
- c. We will not refuse to renew such coverage solely because the first Named Insured has accepted an offer of earthquake coverage.

However, the following applies only to insurers who are associate participating insurers as established by Cal. Ins. Code Section 10089.16. We may elect not to renew such coverage after the first Named Insured has accepted an offer of earthquake coverage, if one or more of the following reasons applies:

- (1) The nonrenewal is based on sound underwriting principles that relate to the coverages provided by this policy and that are consistent with the approved rating plan and related documents filed with the Department of Insurance as required by existing law;

- (2) The Commissioner of Insurance finds that the exposure to potential losses will threaten our solvency or place us in a hazardous condition. A hazardous condition includes, but is not limited to, a condition in which we make claims payments for losses resulting from an earthquake that occurred within the preceding two years and that required a reduction in policyholder surplus of at least 25% for payment of those claims; or
- (3) We have:
 - (a) Lost or experienced a substantial reduction in the availability or scope of reinsurance coverage; or
 - (b) Experienced a substantial increase in the premium charged for reinsurance coverage of our residential property insurance policies; and

the Commissioner has approved a plan for the nonrenewals that is fair and equitable, and that is responsive to the changes in our reinsurance position.
- d. We will not refuse to renew such coverage solely because the first Named Insured has cancelled or did not renew a policy, issued by the California Earthquake Authority, that included an earthquake policy premium surcharge.
- e. We will not refuse to renew such coverage solely because corrosive soil conditions exist on the premises. This restriction (e.) applies only if coverage is subject to one of the following, which exclude loss or damage caused by or resulting from corrosive soil conditions:
 - (1) Commercial Property Coverage Part – Causes Of Loss – Special Form; or
 - (2) Farm Coverage Part – Causes Of Loss Form – Farm Property, Paragraph D. Covered Causes Of Loss – Special.
- f. If a state of emergency under California Law is declared and the residential property is located in any ZIP Code within or adjacent to the fire perimeter, as determined by California Law, we may not nonrenew this policy for one year, beginning from the date the state of emergency is declared, solely because the dwelling or other structure is located in an area in which a wildfire has occurred.

However, we may nonrenew:

- (1) If willful or grossly negligent acts or omissions by the Named Insured, or his or her representatives, are discovered that materially increase any of the risks insured against;
 - (2) If losses unrelated to the postdisaster loss condition of the property have occurred that would collectively render the risk ineligible for renewal; or
 - (3) If there are physical changes in the property insured against, beyond the catastrophe-damaged condition of the structures and surface landscape, which result in the property becoming uninsurable.
3. We are not required to send notice of nonrenewal in the following situations:
- a. If the transfer or renewal of a policy, without any changes in terms, conditions or rates, is between us and a member of our insurance group.
 - b. If the policy has been extended for 90 days or less, provided that notice has been given in accordance with Paragraph C.1.
 - c. If you have obtained replacement coverage, or if the first Named Insured has agreed, in writing, within 60 days of the termination of the policy, to obtain that coverage.
 - d. If the policy is for a period of no more than 60 days and you are notified at the time of issuance that it will not be renewed.
 - e. If the first Named Insured requests a change in the terms or conditions or risks covered by the policy within 60 days of the end of the policy period.
 - f. If we have made a written offer to the first Named Insured, in accordance with the timeframes shown in Paragraph C.1., to renew the policy under changed terms or conditions or at an increased premium rate, when the increase exceeds 25%.

CALIFORNIA AUTO BODY REPAIR CONSUMER BILL OF RIGHTS

(This form was developed by the California Department of Insurance.)

A CONSUMER IS ENTITLED TO:

1. SELECT THE AUTO BODY REPAIR SHOP TO REPAIR AUTO BODY DAMAGE COVERED BY THE INSURANCE COMPANY. AN INSURANCE COMPANY SHALL NOT REQUIRE THE REPAIRS TO BE DONE AT A SPECIFIC AUTO BODY REPAIR SHOP.
2. AN ITEMIZED WRITTEN ESTIMATE FOR AUTO BODY REPAIRS AND, UPON COMPLETION OF REPAIRS, A DETAILED INVOICE. THE ESTIMATE AND THE INVOICE MUST INCLUDE AN ITEMIZED LIST OF PARTS AND LABOR ALONG WITH THE TOTAL PRICE FOR THE WORK PERFORMED. THE ESTIMATE AND INVOICE MUST ALSO IDENTIFY ALL PARTS AS NEW, USED, AFTERMARKET, RECONDITIONED, OR REBUILT.
3. BE INFORMED ABOUT COVERAGE FOR TOWING AND STORAGE SERVICES.
4. BE INFORMED ABOUT THE EXTENT OF COVERAGE, IF ANY, FOR A REPLACEMENT RENTAL VEHICLE WHILE A DAMAGED VEHICLE IS BEING REPAIRED.
5. BE INFORMED OF WHERE TO REPORT SUSPECTED FRAUD OR OTHER COMPLAINTS AND CONCERNS ABOUT AUTO BODY REPAIRS.
6. SEEK AND OBTAIN AN INDEPENDENT REPAIR ESTIMATE DIRECTLY FROM A REGISTERED AUTO BODY REPAIR SHOP FOR REPAIR OF A DAMAGED VEHICLE, EVEN WHEN PURSUING AN INSURANCE CLAIM FOR REPAIR OF THE VEHICLE.

COMPLAINTS WITHIN THE JURISDICTION OF THE BUREAU OF AUTOMOTIVE REPAIR

Complaints concerning the repair of a vehicle by an auto body repair shop should be directed to:

Toll Free (866) 799-3811

Bureau of Automotive Repair
10949 North Mather Blvd.
Rancho Cordova, CA 95670

The Bureau of Automotive Repair can also accept complaints over its web site at: www.autorepair.ca.gov.

COMPLAINTS WITHIN THE JURISDICTION OF THE CALIFORNIA INSURANCE COMMISSIONER

Any concerns regarding how an auto insurance claim is being handled should be submitted to the California Department of Insurance at:

(800) 927-4357 or (213) 897-8921

California Department of Insurance
Consumer Services Division
300 South Spring Street
Los Angeles, CA 90013

The California Department of Insurance can also accept complaints over its web site at: www.insurance.ca.gov.

BUSINESS AUTO COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.
4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.
5	Owned "Autos" Subject To No-fault	Only those "autos" you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
9	Non-owned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs.

19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.
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B. Owned Autos You Acquire After The Policy Begins

1. If Symbols **1, 2, 3, 4, 5, 6** or **19** are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol **7** is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
 - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Covered Autos Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Covered Autos Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
 - a. Breakdown;
 - b. Repair;
 - c. Servicing;
 - d. "Loss"; or
 - e. Destruction.

SECTION II – COVERED AUTOS LIABILITY COVERAGE

A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Covered Autos Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is An Insured

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
 - (1) The owner or anyone else from whom you hire or borrow a covered "auto".

This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

- (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
- (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
- (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".
- (5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

2. Coverage Extensions

a. Supplementary Payments

We will pay for the "insured":

- (1) All expenses we incur.
- (2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".
- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

b. Out-of-state Coverage Extensions

While a covered "auto" is away from the state where it is licensed, we will:

- (1) Increase the Limit of Insurance for Covered Autos Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or
- b. That the "insured" would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

- a. An "employee" of the "insured" arising out of and in the course of:
 - (1) Employment by the "insured"; or
 - (2) Performing the duties related to the conduct of the "insured's" business; or
- b. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **a.** above.

This exclusion applies:

- (1) Whether the "insured" may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

"Bodily injury" to:

- a. Any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or
- b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph **a.** above.

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or

- b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

9. Operations

"Bodily injury" or "property damage" arising out of the operation of:

- a. Any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment"; or
- b. Machinery or equipment that is on, attached to or part of a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph **a.** or **b.** above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed;
- (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site; or
- (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

12. War

"Bodily injury" or "property damage" arising directly or indirectly out of:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit Of Insurance for Covered Autos Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

a. Comprehensive Coverage

From any cause except:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

b. Specified Causes Of Loss Coverage

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;
- (5) Mischief or vandalism; or
- (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

c. Collision Coverage

Caused by:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

2. Towing

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

3. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
- b. "Loss" caused by hitting a bird or animal; and
- c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

4. Coverage Extensions

a. Transportation Expenses

We will pay up to \$20 per day, to a maximum of \$600, for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

b. Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicates that Comprehensive Coverage is provided for any covered "auto";
- (2) Specified Causes Of Loss only if the Declarations indicates that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

- (3) Collision only if the Declarations indicates that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$20 per day, to a maximum of \$600.

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard

- (1) The explosion of any weapon employing atomic fission or fusion; or
- (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War Or Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.

3. We will not pay for "loss" due and confined to:

- a. Wear and tear, freezing, mechanical or electrical breakdown.
- b. Blowouts, punctures or other road damage to tires.

This exclusion does not apply to such "loss" resulting from the total theft of a covered "auto".

4. We will not pay for "loss" to any of the following:

- a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.

- b. Any device designed or used to detect speed-measuring equipment, such as radar or laser detectors, and any jamming apparatus intended to elude or disrupt speed-measuring equipment.

- c. Any electronic equipment, without regard to whether this equipment is permanently installed, that reproduces, receives or transmits audio, visual or data signals.

- d. Any accessories used with the electronic equipment described in Paragraph c. above.

5. Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- a. Permanently installed in or upon the covered "auto";
- b. Removable from a housing unit which is permanently installed in or upon the covered "auto";
- c. An integral part of the same unit housing any electronic equipment described in Paragraphs a. and b. above; or
- d. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

6. We will not pay for "loss" to a covered "auto" due to "diminution in value".

C. Limits Of Insurance

1. The most we will pay for:

- a. "Loss" to any one covered "auto" is the lesser of:

- (1) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
- (2) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

- b. All electronic equipment that reproduces, receives or transmits audio, visual or data signals in any one "loss" is \$1,000, if, at the time of "loss", such electronic equipment is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;

- (2) Removable from a permanently installed housing unit as described in Paragraph **b.(1)** above; or
 - (3) An integral part of such equipment as described in Paragraphs **b.(1)** and **b.(2)** above.
2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".
 3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:
 - (1) How, when and where the "accident" or "loss" occurred;

- (2) The "insured's" name and address; and
 - (3) To the extent possible, the names and addresses of any injured persons and witnesses.
- b. Additionally, you and any other involved "insured" must:
- (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
 - (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".
 - (4) Authorize us to obtain medical records or other pertinent information.
 - (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.
- c. If there is "loss" to a covered "auto" or its equipment, you must also do the following:
- (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.
 - (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
 - (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.
 - (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. Legal Action Against Us

No one may bring a legal action against us under this Coverage Form until:

- a. There has been full compliance with all the terms of this Coverage Form; and
- b. Under Covered Autos Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

4. Loss Payment – Physical Damage Coverages

At our option, we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceals or misrepresents a material fact concerning:

- a. This Coverage Form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this Coverage Form.

3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. Other Insurance

- a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Covered Autos Liability Coverage this Coverage Form provides for the "trailer" is:

- (1) Excess while it is connected to a motor vehicle you do not own; or
- (2) Primary while it is connected to a covered "auto" you own.

- b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Covered Autos Liability Coverage is primary for any liability assumed under an "insured contract".

- d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. Premium Audit

- a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.
- b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. Policy Period, Coverage Territory

Under this Coverage Form, we cover "accidents" and "losses" occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the coverage territory.

The coverage territory is:

- (1) The United States of America;
- (2) The territories and possessions of the United States of America;
- (3) Puerto Rico;
- (4) Canada; and
- (5) Anywhere in the world if a covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less,

provided that the "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada, or in a settlement we agree to.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

8. Two Or More Coverage Forms Or Policies Issued By Us

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us applies to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

SECTION V – DEFINITIONS

- A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".
- B. "Auto" means:
 1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or

2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

- C. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these.

- D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraph **6.b.** or **6.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

- E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".
- F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- G. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.
- H. "Insured contract" means:
 1. A lease of premises;
 2. A sidetrack agreement;
 3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; or
6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

- a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
- c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.
- I. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- J. "Loss" means direct and accidental loss or damage.
- K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
 1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 2. Vehicles maintained for use solely on or next to premises you own or rent;
 3. Vehicles that travel on crawler treads;

4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
5. Vehicles not described in Paragraph 1., 2., 3. or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers; or
6. Vehicles not described in Paragraph 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
 - a. Equipment designed primarily for:
 - (1) Snow removal;
 - (2) Road maintenance, but not construction or resurfacing; or
 - (3) Street cleaning;
 - b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well-servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

- L. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- M. "Property damage" means damage to or loss of use of tangible property.
- N. "Suit" means a civil proceeding in which:
 1. Damages because of "bodily injury" or "property damage"; or
 2. A "covered pollution cost or expense";to which this insurance applies, are alleged.

"Suit" includes:

 - a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.
- O. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- P. "Trailer" includes semitrailer.

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ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

NAMED INSURED ENDORSEMENT

It is agreed that the following entity(ies) is(are) included as Named Insured(s):

A&A Waste and Recycling

Patriot Services, Inc.

A&A Roll-off and Waste

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

BUSINESS AUTO – ADDITIONAL INSURED WHEN REQUIRED BY CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section II - Liability Coverage A. - Coverage, 1. Who is an Insured, is amended to add:

- d. Any person or organization to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into, excluding contracts or agreements for professional services, which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you. However, the insurance provided will not exceed the lesser of:
 - 1. The coverage and/or limits of this policy; or
 - 2. The coverage and/or limits required by said contract or agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

CANCELLATION FOR NON-PAYMENT OF AUDIT PREMIUM

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

You will pay all premium when due, including prior years' retrospective and audit premium, as applicable. Failure to pay all premiums when due will result in cancellation of the policy in accordance with state law.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALIFORNIA CHANGES

For a covered "auto" licensed or principally garaged in or "auto dealer operations" conducted in California this endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A.** The term "spouse" is replaced by the following:
Spouse or registered domestic partner under California law.
- B.** The following are added to the **Other Insurance Condition** in the Auto Dealers and Business Auto Coverage Forms and the **Other Insurance – Primary And Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form and supersede any provisions to the contrary:
 - 1.** When this Coverage Form and any other Coverage Form or policy providing liability coverage apply to an "auto" and:
 - a.** One provides coverage to a Named Insured engaged in the business of selling, repairing, servicing, delivering, testing or road-testing "autos"; and
 - b.** The other provides coverage to a person not engaged in that business; and
 - c.** At the time of an "accident", a person described in Paragraph **1.b.** is operating an "auto" owned by the business described in Paragraph **1.a.**, then that person's liability coverage is primary and the Coverage Form issued to a business described in Paragraph **1.a.** is excess over any coverage available to that person.
 - 2.** When this Coverage Form and any other Coverage Form or policy providing liability coverage apply to an "auto" and:
 - a.** One provides coverage to a Named Insured engaged in the business of selling, repairing, servicing, delivering, testing or road-testing "autos"; and
 - b.** The other provides coverage to a person not engaged in that business; and
 - c.** At the time of an "accident", a person described in Paragraph **1.b.** is operating an "auto" owned by a person described in Paragraph **2.b.**, then the Coverage Form issued to the business described in Paragraph **2.a.** is primary and the liability coverage issued to a person described in Paragraph **2.b.** is excess over any coverage available to the business.
 - 3.** When this Coverage Form and any other Coverage Form or policy providing liability coverage apply to a "commercial vehicle" and:
 - a.** One provides coverage to a Named Insured, who in the course of business, rents or leases "commercial vehicles" without operators; and
 - b.** The other provides coverage to a person other than as described in Paragraph **3.a.**; and
 - c.** At the time of an "accident", a person who is not the Named Insured of the policy described in Paragraph **3.a.**, and who is not the agent or "employee" of such Named Insured, is operating a "commercial vehicle" provided by the business covered by the Coverage Form or policy described in Paragraph **3.a.**, then the liability coverage provided by the Coverage Form or policy described in Paragraph **3.b.** is primary, and the liability coverage provided by the Coverage Form or policy described in Paragraph **3.a.** is excess over any coverage available to that person.

4. Notwithstanding Paragraph **B.3.**, when this Coverage Form and any other Coverage Form or policy providing liability coverage apply to a power unit and any connected "trailer" or "trailers" and:
- a. One provides coverage to a Named Insured engaged in the business of transporting property by "auto" for hire; and
 - b. The other provides coverage to a Named Insured not engaged in that business; and
 - c. At the time of an "accident", a power unit is being operated by a person insured under the Coverage Form or policy described in Paragraph **4.a.**, then that Coverage Form or policy is primary for both the power unit and any connected "trailer" or "trailers" and the Coverage Form or policy described in Paragraph **4.b.** is excess over any other coverage available to such power unit and attached "trailer" or "trailers".

C. As used in this endorsement:

"Commercial vehicle" means an "auto" subject to registration or identification under California law which is:

1. Used or maintained for the transportation of persons for hire, compensation or profit;
2. Designed, used or maintained primarily for the transportation of property; or
3. Leased for a period of six months or more.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALIFORNIA AUTO MEDICAL PAYMENTS COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. Coverage

We will pay reasonable expenses incurred for necessary medical and funeral services to or for an "insured" who sustains "bodily injury" caused by "accident". We will pay only those expenses incurred, for services rendered within three years from the date of the "accident".

B. Who Is An Insured

1. You while "occupying" or, while a pedestrian, when struck by any "auto".
2. If you are an individual, any "family member" while "occupying" or, while a pedestrian, when struck by any "auto".
3. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, loss or destruction.

C. Exclusions

This insurance does not apply to any of the following:

1. "Bodily injury" sustained by an "insured" while "occupying" a vehicle located for use as a premises.
2. "Bodily injury" sustained by you or any "family member" while "occupying" or struck by any vehicle (other than a covered "auto") owned by you or furnished or available for your regular use.

3. "Bodily injury" sustained by any "family member" while "occupying" or struck by any vehicle (other than a covered "auto") owned by or furnished or available for the regular use of any "family member".
4. "Bodily injury" to your "employee" arising out of and in the course of employment by you. However, we will cover "bodily injury" to your domestic "employees" if not entitled to workers' compensation benefits. For the purposes of this endorsement, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.
5. "Bodily injury" to an "insured" while working in a business of selling, servicing, repairing or parking "autos" unless that business is yours.
6. "Bodily injury" arising directly or indirectly out of:
 - a. War, including undeclared or civil war;
 - b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

7. "Bodily injury" to anyone using a vehicle without a reasonable belief that the person is entitled to do so.
8. "Bodily injury" sustained by an "insured" while "occupying" any covered "auto" while used in any professional racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply to any "bodily injury" sustained by an "insured" while the "auto" is being prepared for such a contest or activity.

D. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for "bodily injury" for each "insured" injured in any one "accident" is the Limit Of Insurance for Auto Medical Payments Coverage shown in the Declarations.

No one will be entitled to receive duplicate payments for the same elements of "loss" under this coverage and any Liability Coverage form, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

E. Changes In Conditions

The **Conditions** are changed for Auto Medical Payments Coverage as follows:

1. The **Transfer Of Rights Of Recovery Against Others To Us** Condition does not apply.
2. The reference in **Other Insurance** in the Auto Dealers and Business Auto Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form to "other collectible insurance" applies only to other collectible auto medical payments insurance.

F. Additional Definitions

As used in this endorsement:

1. "Family member" means a person related to you by blood, adoption, marriage or registered domestic partnership under California law, who is a resident of your household, including a ward or foster child.
2. "Occupying" means in, upon, getting in, on, out or off.

POLICY NUMBER: BAP2017172-18

COMMERCIAL AUTO
CA 21 54 10 13**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****CALIFORNIA UNINSURED MOTORISTS COVERAGE –
BODILY INJURY**

For a covered "auto" licensed or principally garaged in, or "auto dealer operations" conducted in, California, this endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Patriot Services, Inc. Endorsement Effective Date: 02/10/2024

SCHEDULE

Limit Of Insurance: \$ 350,000	Each "Accident"
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Coverage

1. We will pay all sums the "insured" is legally entitled to recover as compensatory damages from the owner or driver of an "uninsured motor vehicle". The damages must result from "bodily injury" sustained by the "insured" caused by an "accident". The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the "uninsured motor vehicle".
2. We will pay only after the limits of liability under any liability bonds or policies have been exhausted by payment of judgments or settlements.
3. Any judgment for damages arising out of a "suit" brought without our written consent is not binding on us.

B. Who Is An Insured

If the Named Insured is designated in the Declarations as:

1. An individual, then the following are "insureds":
 - a. The Named Insured and any "family members".
 - b. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
 - c. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".

2. A partnership, limited liability company, corporation or any other form of organization, then the following are "insureds":
 - a. Anyone "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
 - b. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".

C. Exclusions

This insurance does not apply to any of the following:

1. Punitive or exemplary damages.
2. Any claim settled without our consent. However, this exclusion does not apply to a settlement made with the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle".
3. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law or to the direct benefit of the United States, a state or its political subdivisions.
4. "Bodily injury" sustained by:
 - a. An individual Named Insured while "occupying" or when struck by any vehicle owned by that Named Insured that is not a covered "auto" for Uninsured Motorists Coverage under this Coverage Form;
 - b. Any "family member" while "occupying" or when struck by any vehicle owned by that "family member" that is not a covered "auto" for Uninsured Motorists Coverage under this Coverage Form; or
 - c. Any "family member" while "occupying" or when struck by any vehicle owned by the Named Insured that is insured for Uninsured Motorists Coverage on a primary basis under any other Coverage Form or policy.

However, Exclusion **4.** shall not apply to "bodily injury" sustained by an individual Named Insured or "family member" when struck by a vehicle owned by that "insured" and operated or caused to be operated by a person without that "insured's" consent in connection with criminal activity that has been documented in a police report and to which that "insured" is not a party to.

5. "Bodily injury" sustained by an individual Named Insured or any "family member" while "occupying" any vehicle leased by that Named Insured or any "family member" under a written contract for a period of six months or more that is not a covered "auto".
6. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.
7. "Bodily injury" sustained by an "insured" while "occupying" any "auto" that is rented or leased to that "insured" for use as a public or livery conveyance. However, this exclusion does not apply if the "insured" is in the business of providing public or livery conveyance.
8. "Bodily injury" arising directly or indirectly out of:
 - a. War, including undeclared or civil war;
 - b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

D. Limit Of Insurance

1. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for all damages resulting from any one "accident" is the Limit Of Insurance for Uninsured Motorists Coverage shown in the Schedule or Declarations.
2. For a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle", our Limit of Insurance shall be reduced by all sums paid because of "bodily injury" by or for anyone who is legally responsible, including all sums paid or payable under this policy's Covered Autos Liability Coverage.
3. No one will be entitled to receive duplicate payments for the same elements of "loss" under this coverage and any Liability Coverage form or Medical Payments Coverage endorsement attached to this Coverage Part.

We will not make a duplicate payment under this coverage for any element of "loss" for which payment has been made by or for anyone who is legally responsible.

We will not pay for any element of "loss" if a person is entitled to receive payment for the same element of "loss" under any workers' compensation, disability benefits or similar law.

E. Changes In Conditions

The Conditions are changed for California Uninsured Motorists Coverage – Bodily Injury as follows:

1. Duties In The Event Of Accident, Claim, Suit Or Loss in the Business Auto and Motor Carrier Coverage Forms and **Duties In The Event Of Accident, Claim, Offense, Suit, Loss Or Acts, Errors Or Omissions** in the Auto Dealers Coverage Form are changed by adding the following:

- a. Promptly notify the police if a hit-and-run driver is involved; and
- b. Send us copies of the legal papers if a "suit" is brought. In addition, a person seeking coverage under Paragraph **b.** of the definition of "uninsured motor vehicle" must:
 - (1) Provide us with a copy of the complaint by personal service or certified mail if the "insured" brings an action against the owner or operator of such "uninsured motor vehicle";
 - (2) Within a reasonable time, make all pleadings and depositions available for copying by us or furnish us copies at our expense; and
 - (3) Provide us with proof that the limits of insurance under any applicable liability bonds or policies have been exhausted by payment of judgments or settlements.

2. Legal Action Against Us is replaced by the following:

Legal Action Against Us

No legal action may be brought against us under this Coverage Form until there has been full compliance with all the terms of this Coverage Form and with respect to Paragraphs **a.**, **c.** and **d.** of the definition of "uninsured motor vehicle" unless within two years from the date of the "accident":

- a. Agreement as to the amount due under this insurance has been concluded;
- b. The "insured" has formally instituted arbitration proceedings against us. In the event that the "insured" decides to arbitrate, the "insured" must formally begin arbitration proceedings by notifying us in writing, sent by certified mail, return receipt requested; or

- c. "Suit" for "bodily injury" has been filed against the uninsured motorist in a court of competent jurisdiction.

Written notice of the "suit" must be given to us within a reasonable time after the "insured" knew, or should have known, that the other motorist is uninsured. In no event will such notice be required before two years from the date of the accident. Failure of the "insured" or his or her representative to give us such notice of the "suit" will relieve us of our obligations under this Coverage Form only if the failure to give notice prejudices our rights.

3. Transfer Of Rights Of Recovery Against Others To Us is replaced by the following:

Transfer Of Rights Of Recovery Against Others To Us

- a. With respect to Paragraphs **a.**, **c.** and **d.** of the definition of "uninsured motor vehicle", if we make any payment, we are entitled to recover what we paid from other parties. Any person to or for whom we make payment must transfer to us his or her rights of recovery against any other party. This person must do everything necessary to secure these rights and must do nothing that would jeopardize them.
- b. With respect to Paragraph **b.** of the definition of "uninsured motor vehicle", if we make any payment and the "insured" recovers from another party, the "insured" shall hold the proceeds in trust for us and pay us back the amount we have paid.

4. Other Insurance in the Auto Dealers and Business Auto Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form are replaced by the following:

If there is other applicable insurance available under one or more policies or provisions of coverage:

- a. The maximum recovery under all Coverage Forms or policies combined may equal but not exceed the highest applicable limit for any one vehicle under any Coverage Form or policy providing coverage on either a primary or excess basis.
- b. Any insurance we provide with respect to a vehicle the Named Insured does not own shall be excess over any other collectible uninsured motorists insurance providing coverage on a primary basis.

c. If the coverage under this Coverage Form is provided:

- (1) On a primary basis, we will pay only our share of the "loss" that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on a primary basis.
- (2) On an excess basis, we will pay only our share of the "loss" that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on an excess basis.

5. The following condition is added:

Arbitration

- a. If we and an "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or driver of an "uninsured motor vehicle" or do not agree as to the amount of damages that are recoverable by that "insured", the disagreement will be settled by arbitration. Such arbitration may be initiated by a written demand for arbitration made by either party. The arbitration shall be conducted by a single neutral arbitrator. However, disputes concerning coverage under this endorsement may not be arbitrated. Each party will bear the expenses of the arbitrator equally.
- b. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedures and evidence will apply. The decision of the arbitrator will be binding.

F. Additional Definitions

The following are added to the **Definitions** section:

1. "Family member" means the individual Named Insured's spouse, whether or not a resident of the individual Named Insured's household, and any other person related to such Named Insured by blood, adoption, marriage or registered domestic partnership under California law, who is a resident of such Named Insured's household, including a ward or foster child.

2. "Occupying" means in, upon, getting in, on, out or off.

3. "Uninsured motor vehicle" means a land motor vehicle or "trailer":

- a. For which no liability bond or policy at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged;
- b. That is an underinsured motor vehicle. An underinsured motor vehicle is a land motor vehicle or "trailer" for which the sum of all liability bonds or policies at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged but that sum is less than the Limit of Insurance for this coverage;
- c. For which an insuring or bonding company denies coverage or refuses to admit coverage except conditionally or with reservation or becomes insolvent;
- d. That is a hit-and-run vehicle and neither the driver nor owner can be identified. The vehicle must make physical contact with an "insured", a covered "auto" or a vehicle an "insured" is "occupying"; or
- e. That is owned by an individual Named Insured or "family member" and operated or caused to be operated by a person without the owner's consent in connection with criminal activity that has been documented in a police report.

However, "uninsured motor vehicle" does not include any vehicle:

- a. Owned or operated by a self-insurer under any applicable motor vehicle law except a self-insurer who is or becomes insolvent and cannot provide the amounts required by that motor vehicle law;
- b. Owned by the United States of America, Canada, a state or political subdivision of any of those governments or an agency of any of the foregoing; or
- c. Designed or modified for use primarily off public roads while not on public roads.

POLICY NUMBER: BAP2017172-18

COMMERCIAL AUTO
CA 21 55 10 13**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****CALIFORNIA UNINSURED MOTORISTS COVERAGE -
PROPERTY DAMAGE**

For a covered "auto" licensed or principally garaged in or "garage operations" conducted in California this endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Patriot Services, Inc.
Endorsement Effective Date: 02/10/2024

SCHEDULE

"Property Damage" Uninsured Motorists Coverage	
Designation Or Description Of Covered "Auto"	Premium
	\$ Included
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Coverage

1. We will pay all sums the "insured" is legally entitled to recover as compensatory damages from the owner or operator of an "uninsured motor vehicle". The damages must result from "property damage" caused by an "accident". The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the "uninsured motor vehicle".
2. Any judgment for damages arising out of a "suit" brought without our written consent is not binding on us.

B. Exclusions

This insurance does not apply to any of the following:

1. The direct or indirect benefit of any insurer of property.
2. Property contained in the covered "auto". However, this exclusion does not apply to the replacement of a child passenger restraint system meeting federal motor vehicle safety standards that was damaged or was in use by a child during an "accident".

3. "Property damage" to any motor vehicle owned by you or any "family member" that is not a covered "auto".
4. "Property damage" to any motor vehicle owned by you to which collision coverage applies under this policy or any other policy.
5. Punitive or exemplary damages.
6. "Property damage" arising directly or indirectly out of:
 - a. War, including undeclared or civil war;
 - b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

C. Limit Of Insurance

1. Regardless of the number of covered "autos", claims made, premiums paid or vehicles involved in the "accident", the most we will pay for all damages resulting from any one "accident" is the lesser of the following:
 - a. \$3,500; or
 - b. The actual cash value of the damaged covered "auto" at the time of the "accident".
2. Any amount payable as damages under this coverage shall be reduced by all sums paid by or for anyone who is legally responsible.

D. Changes In Conditions

The Conditions are changed for California Uninsured Motorists Coverage – Property Damage as follows:

1. **Duties In The Event Of Accident, Claim, Suit Or Loss** in the Business Auto and Motor Carrier Coverage Forms and **Duties In The Event Of Accident, Claim, Offense, Suit, Loss Or Acts, Errors Or Omissions** in the Auto Dealers Coverage Form are changed by adding the following:
 - a. Promptly notify the police if a hit-and-run driver is involved;
 - b. Report the "accident" or "loss" to us or to our agent within 10 business days; and
 - c. Promptly send us copies of the legal papers if a "suit" is brought.

2. **Other Insurance** in the Auto Dealers and Business Auto Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form are replaced by the following:

If there is other applicable insurance available under one or more policies or provisions of coverage:

- a. The maximum recovery under all Coverage Forms or policies combined may equal but not exceed the highest applicable limit for any one vehicle under any Coverage Form or policy providing coverage on either a primary or excess basis.
- b. Any insurance we provide with respect to a vehicle you do not own shall be excess over any other collectible uninsured motorists insurance providing coverage on a primary basis.
- c. If the coverage under this Coverage Form is provided:
 - (1) On a primary basis, we will pay only our share of the "loss" that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on a primary basis.
 - (2) On an excess basis, we will pay only our share of the "loss" that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on an excess basis.

3. The following condition is added:

Arbitration

- a. If we and an "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or operator of an "uninsured motor vehicle" or do not agree as to the amount of damages that are recoverable by that "insured", the disagreement will be settled by arbitration. Such arbitration may be initiated by a written demand for arbitration made by either party within one year. The arbitration shall be conducted by a single neutral arbitrator. However, disputes concerning coverage under this endorsement may not be arbitrated. Each party will bear the expenses of the arbitrator equally.

- b. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. The decision of the arbitrator will be binding.

E. Additional Definitions

1. The following words and phrases have special meaning for California Uninsured Motorists Coverage – Property Damage:

- a. "Auto" means a self-propelled motor vehicle. However, it does not include:

- (1) A vehicle transporting persons for hire, compensation or profit other than van pool vehicle;
- (2) A vehicle designed, used or maintained primarily for the transportation of property; or
- (3) "Mobile equipment".

- b. "Property damage" means injury to or destruction of a covered "auto". However, "property damage" does not include loss of use.

2. As used in this endorsement:

"Uninsured motor vehicle" means a land motor vehicle or trailer that is involved in a collision with a covered "auto" and for which:

- a. No liability bond or policy at the time of an "accident" provides at least the amount required for "property damage" liability by the California Financial Responsibility Law; or

- b. The insuring or bonding company denies coverage or refuses to admit coverage except conditionally or with reservation or becomes insolvent.

The collision must involve direct physical contact between a covered "auto" and the "uninsured motor vehicle", and:

- a. The owner or operator of the "uninsured motor vehicle" must be identified; or
- b. The "uninsured motor vehicle" must be identified by its license number.

However, "uninsured motor vehicle" does not include any vehicle:

- a. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide the amounts required by that motor vehicle law;
- b. Owned by the United States of America, Canada, a state or political subdivision of any of those governments or an agency of any of the foregoing; or
- c. Designed for use mainly off public roads while not on public roads.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WRONG DELIVERY OF LIQUID PRODUCTS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

Covered Autos Liability Coverage is changed by adding the following exclusion:

This insurance does not apply to:

"Bodily injury" or "property damage" resulting from the delivery of any liquid into the wrong receptacle or to the wrong address, or from the delivery of one liquid for another, if the "bodily injury" or "property damage" occurs after delivery has been completed.

Delivery is considered completed even if further service or maintenance work, or correction, repair or replacement is required because of wrong delivery.

**COMMERCIAL AUTO
CA 99 44 10 13**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LOSS PAYABLE CLAUSE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A.** We will pay, as interest may appear, you and the loss payee named in the policy for "loss" to a covered "auto".
- B.** The insurance covers the interest of the loss payee unless the "loss" results from conversion, secretion or embezzlement on your part.
- C.** We may cancel the policy as allowed by the Cancellation Common Policy Condition.

Cancellation ends this agreement as to the loss payee's interest. If we cancel the policy, we will mail you and the loss payee the same advance notice.

- D.** If we make any payments to the loss payee, we will obtain his or her rights against any other party.

POLICYHOLDER NOTICE

OFFICE OF FOREIGN ASSET CONTROL (OFAC)

No insurer shall be deemed to provide coverage and no insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such coverage, payment of such claim or provision of such benefit would expose that insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions laws or regulations of the European Union, United Kingdom or the United States.

DATE (MM/DD/YYYY)

□□□□□□□□

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

[illegible]

REVISION NUMBER:

[illegible]

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R r d r r 3

CANCELLATION

<div style="text-align: center;"><p>XXXXXXXXXXXX XXXXXX</p><p>D XXXXX XXXXXX XX</p><p>XXXXXXXXXX XXXXXXXX</p><p>XXXXXX XX</p></div>	<div style="text-align: right; padding-right: 50px;">3</div>
	<div style="text-align: center;"><p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p></div> <div>AUTHORIZED REPRESENTATIVE<div style="float: right;"></div></div>

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Transfer stations/MRF

Universal Waste Systems
9016 Norwalk Blvd
Santa Fe Springs CA 90670

Puente Hills Material Recover Facility
2808 Workman Mill Rd
Whittier CA 90601

Recycling

Puente Hills Material Recover Facility
2808 Workman Mill Rd
Whittier CA 90601

Universal Waste Systems
9016 Norwalk Blvd
Santa Fe Springs CA 90670

Organics

MB Nursery
724 E El Segundo Blvd
Los Angeles CA 90059
Wood Grinding/Sawdust/Clean Dirt

Green Wise Soil Technologies
10120 Miller Way
South Gate CA 90280

C&D

California Waste Services
621 W 152nd St
Gardena CA 90247
C&D waste \$95 per ton

Ace Diversion
1530 Date St
Montebello CA 90640

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Attachment #1

We pride ourselves on being up to date with all state and local legislation. We have implemented recycling programs for food waste, organics, and mixed recyclables for current customers. We also use state of the art material recovery facilities to ensure a maximum level of diversion for the solid waste we pick up.

The overall success of our programs requires consistent maintenance and continued waste characterization studies to ensure customers stick with the protocols of the programs we implement.

Our primary efforts and success start with source separated recycling. This allows us to achieve the highest diversion rates possible. This is what makes waste characterization studies so important. The study allows us to design and implement a comprehensive recycling program for customers and help maintain the program.

As part of our plan to better assist the city in meeting the State requirements it is our normal business practice to divert as much waste from the landfill as possible. This is why we currently take the majority of the waste stream we collect to materials recovery facilities. This allows us to enhance diversion and capture recyclable items that have been discarded in containers provided for waste.

It is also at this point where we do our own waste characterization studies to identify how much recyclable material, we collect from waste containers and through the efforts of our drivers and staff identify those who generate and dispose of recyclables in their waste streams. Once our drivers report which customers these are we perform site visits and offer recycling services to help them save on their disposal costs and help us increase our diversion efforts and increase our overall diversion rates in the city. This in our eyes is a win-win situation. It works to everyone's benefit and customers are happier with this proactive approach.

With heavy training and standard operating procedures in place this approach has now become second nature to our staff and has been easy to maintain. This practice and approach is our standard procedure for all waste streams we collect.

We are also committed to finding new ways to reduce, reuse and recycle. We are committed to engaging with organizations around the city to help us with these efforts in any capacity. Aside from waste collection and disposal, we will seek out organizations that have a use for items we may collect before they enter the waste stream. We can identify customers that normally dispose of items that can be re-used to those who may need it.

Currently we are providing and helping the City of El Segundo and City of Torrance comply with the California mandates SB1383, AB341, AB1826. We provide C&D service all over Los Angeles County and make sure all cities comply with SB1374.

We utilize front loader and roll off trucks for our collection methods. We transport all materials to its correct processing facilities. By doing so we insure the highest possible diversion rates. Currently our diversion rates are as follows:

MSW	5%
Organics	80%
Food Waste	95%
Mixed Recycling	80%
Carboard Recycling	100%
Metal Recycling	100%
C & D	90.5%

Attachment #2

Trash

Patriot Services offers trash collection 7 days a week in containers sizes varying from 64-gallons up to 6-yard bins, roll-off containers, and compactors.

We recently purchased a new 2024 MACK TerraPro front load collection vehicle. Together with our current 2021 Peterbilt front load collection vehicle, these specialty waste & recycling collection vehicles enable us to service carts and bins with the same truck making our routes more efficient and reducing the number of vehicles on the streets.

Recyclables

Patriot Services offers 7 days a week recycling service in containers ranging in size from 35-gallons up to 6-yard bins, roll-off containers, and compactors.

Patriot Services believes in a personal touch with customers.

Prior to starting collection with a customer, our staff meets directly with all customers to explain our recycling service and describe what materials are acceptable and not acceptable for recycling.

For customers we prepare, plan and implement a custom designed recycling program to meet each customer's specific needs. We assist customers with training and protocol to ensure the programs succeed. This involves separate waste & recycling receptacles, and the types of bags used to help eliminate contamination. Pictured below is a customer that currently subscribed for recycling and organics recycling service.



Acceptable Materials for Recycling Program

- Paper Products
- Junk mail
- Newspaper
- Mixed color paper
- White paper
- Cardboard
- Magazines
- Telephone books
- Paper bags
- Egg cartons
- Steel cans
- Tin cans
- Clear, amber, green glass container
- Food cans
- Pipe tins
- Plastic Containers
- Bottles & containers
- Plastic bags
- Detergent containers
- Glass Containers
- Metal Containers
- Aluminum cans

Non-Acceptable Material for Recycling Program

- Food waste
- Fluids
- Hazardous & Electronic Waste
- Garbage
- Light Bulbs
- Styrofoam
- Batteries
- Organic waste

Organic Materials

Patriot Services offers 7 days a week service in containers ranging in size from 35-gallon up to 3-yard bins and roll-offs.

As we do with recyclables, our staff meets directly with all customers prior to commencing organic materials disposal service to explain our organic materials disposal service and describe what materials are acceptable and not acceptable for disposal as organic recycling.

In addition, customers are advised that all food waste must be placed in clear compostable liner bags. In most cases we also provide customers with complimentary liners to begin service. Customers may also throw organics waste directly in the containers without a bag if they choose.

We encourage all our customers to participate in organics recycling and explain how to properly dispose of organic waste. Any contamination in the cart or bin will be tagged.

We also have our own food waste program specifically designed for restaurants. Since food waste has a very high diversion rate, we offer daily food waste collection service with container sizes varying from 35-gallon carts to 3-yard bins.

Acceptable Items for Organics

- Leaves
- Grass clippings
- Branches
- Brush
- Kitchen paper towels & napkins
- Wooden & fiber-based utensils
- Pizza Boxes
- Tree trimming
- Saw dust
- Food soiled paper
- Food stained paper
- Certified compostable paper plates
- Compostable containers

Food waste (Placed in biodegradable compostable bags)

- all food scraps
- Meat, bones, & poultry
- Seafood & soft shells
- Pizza, rice, & pasta
- Bread and pastries
- Pet food (non-medicated)
- Cereals and grains
- Cheese & dairy
- Tea Bags, coffee grounds & filters
- Fruits & vegetables
- Out of date or spoiled food
-

Non-acceptable for Organics

- No Trash
- Packaging of any kind
- Plastic bags, cups, or gloves
- Plastic Utensils
- rocks & soil
- Recycling materials of any kind
- Animal waste or litter
- Styrofoam
- Fats, oils, or grease
- Napkins or paper towels containing cleaning chemicals

Sample Outreach Materials Distributed to Customers –

The following outreach flyers were mailed to our customers. The first flyer is an explanation of the new food and yard waste rules under SB 1383.

This letter outlines the reason for the changes to help eliminate methane gas from decomposing organic waste in landfills which contributes to global warming. The letter also explains that waste haulers will expand organic waste collection services for residents and businesses and the waste collected will be recycled using composting facilities that make soil amendments utilizing Anaerobic digestion technology to break down organic waste in closed spaces where there is no oxygen and create renewable natural gas.

In addition, the letter informed our customers that starting in 2022, large food-service businesses must donate surplus edible food to food recovery organizations with a 2025 goal to redirect and donate 20% of edible food to those in need.

The second handout was mailed to all Patriot Services customers informing them that per SB 1383 they will be able to use your green organics container for the collection of landscaping waste, food scraps, and 100% fiber-based, food-soiled paper.



Waste Collection - Recycling - Storage Containers - Rent -A- Bin - Roll Off Containers - Compactors

New Food & Yard Waste Rules – SB 1383

[California State Senate Bill 1383](#) (SB 1383), requires the reduction of organic waste disposed of in landfills. Organic waste is comprised of food scraps and food-soiled paper from kitchens and food operations and yard waste such as garden and landscape waste, organic textiles and carpets and wood waste.

Reason for Changes

According to the Environmental Protection Agency, organic waste accounts for a significant portion of California's waste stream. Left to decompose in landfills, the organic waste releases methane, a gas that traps the sun's heat, warms the atmosphere and contributes to global warming. To address this issue, then-Governor Jerry Brown, signed Senate Bill 1383 into law which targets the reduction of pollutants, including methane. Cities throughout California must meet the new reduction limits through organic waste reduction.

Collection and Recycling

Starting in 2022, the City and City-certified private waste haulers will expand organic waste collection services for residents and businesses. Food and yard waste collected will be recycled using:

- Composting facilities that make soil amendments, materials that are added to soil to change and improve it.
- Anaerobic digestion facilities, technology and microorganisms break down organic waste in closed spaces where there is no oxygen and create renewable natural gas.

Organic Waste



Food Recovery from Businesses

Starting in 2022, large food-service businesses must donate surplus edible food to food recovery organizations with additional businesses starting in 2024. California is working towards a 2025 goal to redirect and donate 20% of edible food to those in need. Learn more about SB1383 at calrecycle.ca.gov

Please contact Helen Garcia at 310-414-1122 if you have further questions about the new law that is going into effect Jan 01, 2022.

Second Flyer - Organics

Patriot Services is partnering with your city to implement food scrap collection for multifamily complexes and commercial buildings. Per Senate Bill 1383, commercial and multifamily complexes across California will be required to place into their green waste container ALL their landscaping waste, food scraps, and food-soiled paper (100% fiber-based).

WHAT'S CHANGING?

You will be able to use your green organics container for the collection of landscaping waste, **food scraps, and 100% fiber-based, food-soiled paper.**

DID YOU SAY FOOD SCRAPS?

Yes, Patriot Services will accept all types of food scraps. Our American Organics compost facility converts organics waste into nutrient-rich soil amendment. The resulting compost is used by commercial farmers, city projects, garden shops, landscapers, and residents.

HOW DO I PARTICIPATE?

- To collect your kitchen food scraps, you can choose to use a portable, reusable pail-like container with a tight-fitting lid. It could be plastic, metal, or ceramic.
- Consider reusing a coffee canister, large yogurt or margarine tub, or juice pitcher.
- Pail options can be purchased at a retail store or searched online for “Kitchen Pail.”
- Storage ideas can include the kitchen counter, under the sink, in the freezer, or wherever you feel is best.

WHY ORGANICS RECYCLING?

Landfills are the third largest source of methane in California. Organics waste emits 20% of the state's methane; a climate super pollutant up to 84 times more potent than carbon dioxide. By diverting organics from the landfill, you are part of the solution in helping to protect the environment and future generations.

ARE BAGS ACCEPTED?

Liners are optional. Plastic and bioplastic “compostable” bags are accepted in the organic's container, but must be CLEAR or translucent-green, and bag contents must be visible. Acceptable organics will be processed, but the bags will not be recycled or composted.

WHERE CAN I GET MORE INFORMATION?

Patriot Services is here to support the community with this new program and will provide resources and training to help you get started.

If you have any questions about the new organics collection program, please contact the Patriot Services Customer Care Center at (310) 414-1122 or email us at info@patriotservinc.com

For more information on SB 1383, also check out CalRecycle.ca.gov/Organics/SLCP.

ACCEPTABLE ORGANICS WASTE

Green Waste

- Flower & hedge trimmings
- Grass clippings
- Leaves & branches
- Lumber, scrap wood, & plywood (not painted or treated)
- Weeds

Food Scraps

- Bread, rice, & pasta
- Cheese & dairy
- Coffee grounds & filters
- Fruits & vegetables
- Flowers & herbs
- Meat, bones, & poultry
- Seafood & soft shells (lobster, crab, & shrimp)
- Pet food (non-medicated)

Food-Soiled Paper*

- Food-stained paper
- Paper egg cartons
- Paper napkins & kitchen towels
- Pizza boxes
- Plates• To-go boxes (no coating)
- Wooden & fiber-based utensils

** Must be 100% fiber based. NO materials with bioplastic, wax, or petroleum-based plastic coating, liner, or laminate*

DO NOT INCLUDE

- All plastics
- Cacti, succulents, & yucca
- Compostable plastics (bioplastics)
- Coffee cups & pods
- Fats, oils, & grease
- Food stickers (please remove)
- Gloves
- Hard shells (clams, mussels, oysters)
- Medication
- Palm fronds
- Paper napkins & towels with cleaning chemicals
- Parchment & wax paper
- Pet waste
- Rocks & soil
- Rubber bands & twist ties
- Tea bags
- Textiles
- Tissues & wet wipes

Food waste container

Collected Weekly

- ✓ Bones, fat and gristle
- ✓ Eggs and eggshells
- ✓ Fruit and vegetable peelings
- ✓ Meat and fish
- ✓ Pasta and rice
- ✓ Tea bags and coffee grounds
- ✓ Cereal
- ✓ Bread, cakes and pastries

- ✗ Plastic bags - use compostable liners
- ✗ Oils, fats or liquids of any kind
- ✗ Nappies
- ✗ Pet Litter



Food Rescue

Starting in 2022, large food-service businesses must donate surplus edible food to food recovery organizations with additional businesses starting in 2024. California is working towards a 2025 goal to redirect and donate 20% of edible food to those in need.

To help the City of El Segundo meet the 2025 statewide goal, Patriot Services will educate their customers and the community about the benefits of food rescue providing resources and guidance on how to reduce food waste at the source.

Patriot Services will help provide incentives for businesses to donate excess food rather than disposing of it by collaborating with local food banks and non-profits to obtain surplus food.

In addition, Patriot Services is fully committed to assisting the city to help educate local businesses and residents regarding the benefits of food rescue. Education and outreach are the main priority to make sure this program is successful to its fullest capacity.

With hunger all around us, we must ensure this program's success.

**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Rainbow Disposal Co., Inc, a Republic Services Subsidiary

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3 Actions for Damages.....46

19 ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS
AND LIMITATIONS46

20 GENERAL PROVISIONS47

20.1 Force Majeure47

20.2 Property Damage47

20.3 Pavement Damage47

20.4 Right of Entry47

20.5 City’s Authorized Agent47

20.6 Amendments48

20.7 Independent Contractor.....48

20.8 Law to Govern; Venue.....48

20.9 Joint Drafting48

20.10 Section Headings48

20.11 Successors and Assigns.....48

20.12 Waiver48

20.13 Notices49

20.14 Severability49

20.15 Exhibits Incorporated.....49

20.16 Attorneys’ Fees and Litigation Costs.....49

20.17 Corporate Resolution49

20.18 Integration49

20.19 Compliance with Law50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and Rainbow Disposal Co., Inc (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment.

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1 Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~The~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~The~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 ☐ Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 ☐ CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 ☐ Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ **Force Majeure.** Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ **Property Damage.** Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ **Pavement Damage.** Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ **Right of Entry.** Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ **City's Authorized Agent.** Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Rainbow Disposal Co., Inc
17121 Nichols Lane
Huntington Beach, CA 92647

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

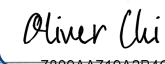
CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F95474A7...
City Attorney

Date: 8/30/2024

Signed by:

7809AA719A2B4C7...
City Manager

ATTEST:

Date: 8/30/2024

DocuSigned by:

0FCAD91F02E547D...
City Clerk

Date: 8/30/2024

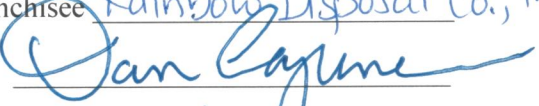
Franchisee Rainbow Disposal Co., Inc
By: 
Title: General Manager

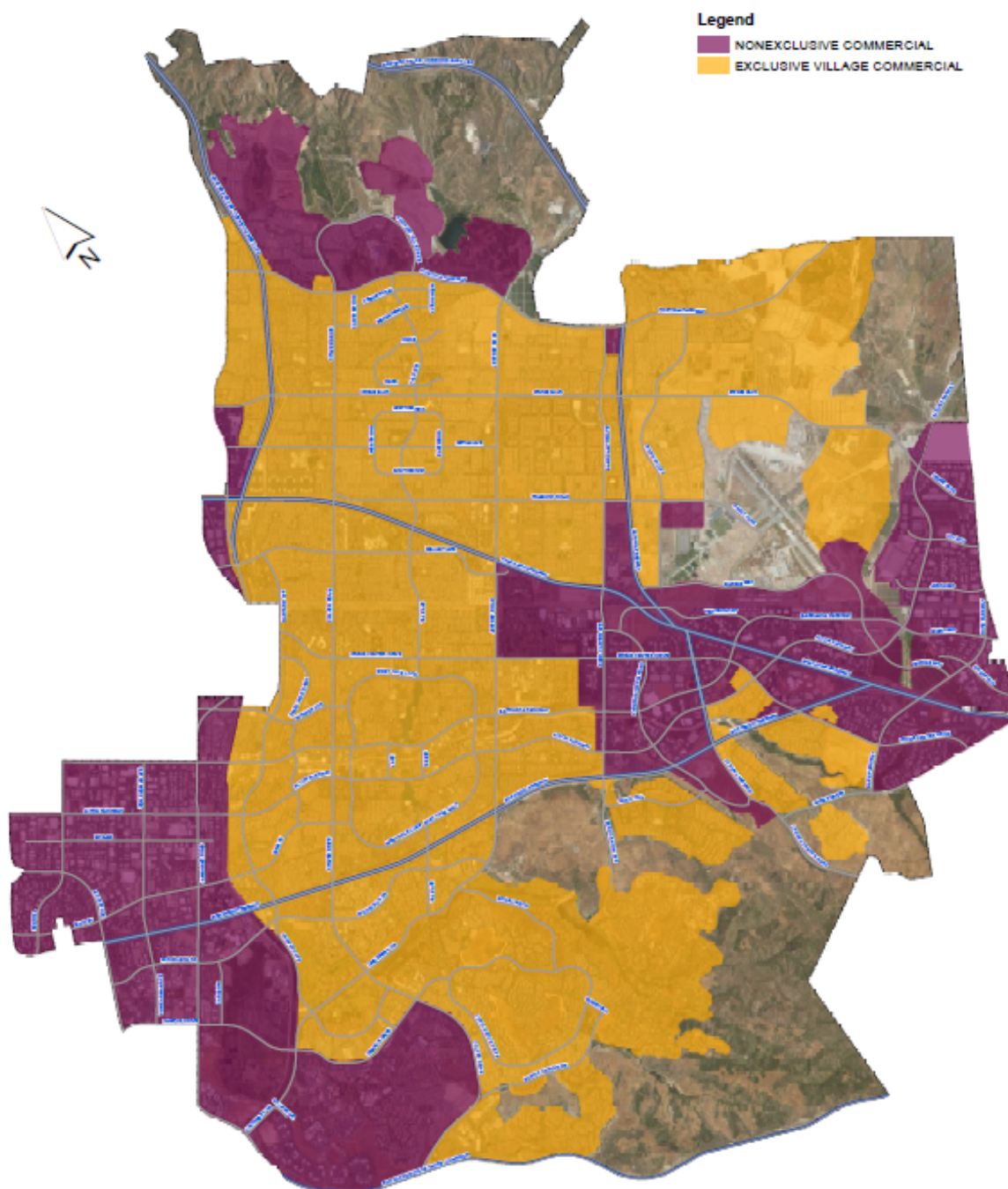
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Commercial Solid Waste Collection**WORKERS' COMPENSATION DECLARATION**

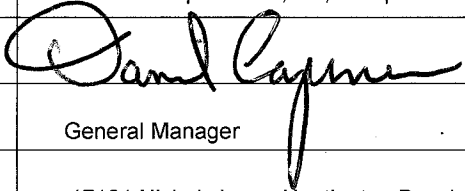
I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/9/2024
Contracting Firm:	Rainbow Disposal Co., Inc, a Republic Services Subsidiary
Signature:	
Title:	General Manager
Address:	17121 Nichols Lane, Huntington Beach, CA 92647



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 2

DATE (MM/DD/YYYY)
06/30/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER CANNON COCHRAN MANAGEMENT SERVICES, INC. 17015 NORTH SCOTTSDALE ROAD SCOTTSDALE, AZ 85255	CONTACT NAME: PHONE (A/C No.Ext): FAX (A/C No.Ext): E-MAIL ADDRESS: certificateteam@ccmsi.com INSURER(S) AFFORDING COVERAGE <table border="1"> <tr> <th>INSURER</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: ACE American Insurance Co.</td> <td>22667</td> </tr> <tr> <td>INSURER B: Indemnity Insurance Co of North America</td> <td>43575</td> </tr> <tr> <td>INSURER C: Illinois Union Insurance Company</td> <td>27960</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER	NAIC #	INSURER A: ACE American Insurance Co.	22667	INSURER B: Indemnity Insurance Co of North America	43575	INSURER C: Illinois Union Insurance Company	27960	INSURER D:		INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															
INSURED REPUBLIC SERVICES, INC. 18500 N. ALLIED WAY PHOENIX, AZ 85054															

COVERAGES

CERTIFICATE NUMBER: 2480965

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			HDO G48921000	06/30/2024	06/30/2025	EACH OCCURRENCE \$ 10,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 10,000,000 MED EXP (Any one person) PERSONAL & ADV INJURY \$ 10,000,000 GENERAL AGGREGATE \$ 30,000,000 PRODUCTS -COMP/OP AGG \$ 20,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			ISA H10740083	06/30/2024	06/30/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 10,000,000 BODILY INJURY(Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE AGGREGATE
B A A A C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N N/A ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			WLR C57256862 - AOS WLR C57257672 - OR SCF C57257726 - WI WCU C57257829 - OH XS TNS C57194790 - TX NS/XS	06/30/2024 06/30/2024 06/30/2024 06/30/2024	06/30/2025 06/30/2025 06/30/2025 06/30/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 3,000,000 E.L. DISEASE -EA EMPLOYEE \$ 3,000,000 E.L. DISEASE -POLICY LIMIT \$ 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Division Number: 3876 - Named Insured Includes: Republic Waste Services of Southern California, LLC - DbA: Anaheim Disposal // Brea Disposal // Chino Hills Disposal // Garden Grove Disposal // Placentia Disposal // Yorba Linda Disposal // Villa Park Disposal // Republic Services of Southern California - Anaheim
 Division Number: 4605 - Named Insured Includes: RAINBOW DISPOSAL CO INC

CERTIFICATE HOLDER

City of Irvine
 PO Box 19575
 Irvine, CA 92623-9575
 United States

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**ADDITIONAL REMARKS SCHEDULE**

Page 2 of 2

AGENCY		NAMED INSURED	
POLICY NUMBER See First Page		REPUBLIC SERVICES, INC. 18500 N. ALLIED WAY PHOENIX, AZ 85054	
CARRIER See First Page	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS**CERTIFICATE NUMBER: 2480965****THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM.****FORM NUMBER:** 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

The following provisions apply when required by written contract. As used below, the term certificate holder also includes any person or organization that the insured has become obligated to include as a result of an executed contract or agreement.

GENERAL LIABILITY:

Certificate holder is Additional Insured including on-going and completed operations when required by written contract.

Coverage is primary and non-contributory when required by written contract.

Waiver of Subrogation in favor of the certificate holder is included when required by written contract.

AUTO LIABILITY:

Certificate holder is Additional Insured when required by written contract.

Coverage is primary and non-contributory when required by written contract.

Waiver of Subrogation in favor of the certificate holder is included when required by written contract.

WORKERS COMPENSATION AND EMPLOYERS LIABILITY:

Waiver of Subrogation in favor of the certificate holder is included when required by written contract where allowed by state law.

Stop gap coverage for ND and WA is covered under policy no. WLR C57256862 and stop gap coverage for OH is covered under policy no. WCU C57257829, as noted on page 1 of this certificate.

TEXAS EXCESS INDEMNITY AND EMPLOYERS LIABILITY:

Insured is a registered non-subscriber to the Texas Workers Compensation Act. Insured has filed an approved Indemnity Plan with the Texas Department of Insurance which offers an alternative in benefits to employees rather than the traditional Workers' Compensation Insurance in Texas. The excess policy (TNS C57194790) shown on this certificate provides excess indemnity and Employers Liability coverage for the approved Indemnity Plan.

Contractual Liability is included in the General Liability and Automobile Liability coverage forms. The General Liability and Automobile Liability policies do not contain endorsements excluding Contractual Liability.

Separation of Insured (Cross Liability) coverage is provided to the Additional Insured, when required by written contract, per the Conditions of the Commercial General Liability Coverage form and the Automobile Liability Coverage form.

EXHIBIT D APPROVED FACILITIES

Approved Facility Type	Required Facility Information
Approved Transfer Facility(ies)	<p>Facility Name: CVT Regional Material Recovery and TS</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: 1131 N. Blue Gum St. Anaheim, CA 92806 • <input type="checkbox"/> Operator: Republic Services • <input type="checkbox"/> SWIS Number: SWIS 30-AB-0335 • <input type="checkbox"/> Facility Type: Materials Recovery Facility and TS • <input type="checkbox"/> Material Type(s): Source Separated Recyclable Materials, Yard Waste, Food Waste, Source Separated Organic Materials, C&D , MSW <p>Facility Name: Rainbow Disposal Co., Inc Transfer/Recycling</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: 17121 Nichols Ln Huntington Beach CA, 92647 • <input type="checkbox"/> Operator: Republic Services • <input type="checkbox"/> SWIS Number: SWIS 30-AB-0099 • <input type="checkbox"/> Facility Type: Materials Recovery Facility and TS • <input type="checkbox"/> Material Type(s): Source Separated Recyclable Materials, Yard Waste, Food Waste, Source Separated Organic Materials, C&D , MSW
Designated Disposal Facility(ies)	<p>Facility Name: Frank R. Bowerman Sanitary LF</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: 11002 Bee Canyon Access Road, Irvine, CA 92618 • <input type="checkbox"/> Operator: OC Waste and Recycling • <input type="checkbox"/> SWIS Number: 30-AB-0360 • <input type="checkbox"/> Facility Type: Landfill • <input type="checkbox"/> Material Type(s): MSW • <input type="checkbox"/> RD10279
Approved C&D Facility(ies)	<p>Facility Name: CVT Regional Material Recovery and TS</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: 1131 N. Blue Gum St. Anaheim, CA 92806 • <input type="checkbox"/> Operator: Republic Services • <input type="checkbox"/> SWIS Number: SWIS 30-AB-0335 • <input type="checkbox"/> Facility Type: Materials Recovery Facility and TS • <input type="checkbox"/> Material Type(s): Source Separated Recyclable Materials, Yard Waste, Food Waste, Source Separated Organic Materials, C&D , MSW
Approved Organic Materials Processing Facility(ies)	<p>Facility Name: CVT Regional Material Recovery and TS</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: 1131 N. Blue Gum St. Anaheim, CA 92806 • <input type="checkbox"/> Operator: Republic Services • <input type="checkbox"/> SWIS Number: SWIS 30-AB-0335 • <input type="checkbox"/> Facility Type: Materials Recovery Facility and TS • <input type="checkbox"/> Material Type(s): Source Separated Recyclable Materials, Yard Waste, Food Waste, Source Separated Organic Materials, C&D , MSW • <input type="checkbox"/> RD10570 <p>Facility Name: Agromin OC Ontario</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: 8292 Edison Ave. Ontario, CA 91762 • <input type="checkbox"/> Operator: Agromin • <input type="checkbox"/> SWIS Number: SWIS 36-AA-0499 • <input type="checkbox"/> Facility Type: Composting site

EXHIBIT D
APPROVED FACILITIES

Approved Facility Type	Required Facility Information
	<ul style="list-style-type: none"> • <input type="checkbox"/> Material Type(s): Organics • <input type="checkbox"/> RD13328 <p>Facility Name: Agromin OC- Oceanside Green Materials</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: 1200 Wilshire Rd. Fallbrook, CA 92028 • <input type="checkbox"/> Operator: Agromin • <input type="checkbox"/> SWIS Number: 37-AA-0991 • <input type="checkbox"/> Facility Type: Composting • <input type="checkbox"/> Material Type(s): Organics • <input type="checkbox"/> RD10267 <p>Facility Name: Recology Blossom Valley Organics</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: 6061 N Wheeler Ridge Rd. Lamont, CA 93242 • <input type="checkbox"/> Operator: Recology • <input type="checkbox"/> SWIS Number: SWIS 15-AA-0307 • <input type="checkbox"/> Facility Type: Composting • <input type="checkbox"/> Material Type(s): Organics • <input type="checkbox"/> RD11799 <p>Facility Name: Kochergen Farms Composting</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: Avenal Cutoff Rd. and Omaha Ave. Avenal CA 93239 • <input type="checkbox"/> Operator: Kochergen Farms • <input type="checkbox"/> SWIS Number: SWIS 16-AA-0022 • <input type="checkbox"/> Facility Type: Composting • <input type="checkbox"/> Material Type(s): Organics • <input type="checkbox"/> RD10298
Approved Recyclable Materials Processing Facility	<p>Facility Name: CVT Regional Material Recovery and TS</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: 1131 N. Blue Gum St. Anaheim, CA 92806 • <input type="checkbox"/> Operator: Republic Services • <input type="checkbox"/> SWIS Number: SWIS 30-AB-0335 • <input type="checkbox"/> Facility Type: Materials Recovery Facility and TS • <input type="checkbox"/> Material Type(s): Source Separated Recyclable Materials, Yard Waste, Food Waste, Source Separated Organic Materials , C&D , MSW <p>Facility Name: Waste Management Of Orange</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Address: 2050 Glassell Street Orange, CA 92865 • <input type="checkbox"/> Operator: USA Waste Of California, Inc • <input type="checkbox"/> SWIS Number: 30-AB-0363 • <input type="checkbox"/> Facility Type: Transfer/ Processing • <input type="checkbox"/> Material Type(s): Source separate recyclables

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

Public Education and Outreach | Commercial

All printed materials also to be posted to Republic's Huntington Beach Division website.

Republic Services places the utmost importance on effective outreach and education in helping businesses fully understand options for and benefits of source reduction, reuse, Recycling, and Composting. The following table presents the education and outreach activities that Republic will perform.

Description	Purpose	Distribution/Frequency
Site Visits	1. <input type="checkbox"/> Perform visits to identify the service needs of customers by conducting "Waste Assessments" of Customer locations and facilities; 2. <input type="checkbox"/> Provide all Customers with appropriate educational information necessary to make informed, environmentally forward decisions relative to waste reduction, reuse, and Diversion activities	As Needed
Direct Mailing Outreach	Republic shall prepare and distribute to each Commercial Customer and Multiple-Unit Dwelling that receives Bin service a brochure providing relevant information regarding Republic's services. Republic may provide electronic bill inserts (or separate email attachments) to Republic direct-billed Customers who are billed electronically, and bill text inserts to Republic billed Customers who receive paper bills.	Annually
Website	Republic shall maintain a website with educational materials for viewing and downloading which provide relevant information regarding Republic's services and applicable solid waste laws.	On Going
Out of Compliance Outreach	Produce and distribute a Commercial Customer oriented out of compliance notice for use in instances where the Customer is not in compliance with SB 1383.	As Needed
Contamination Notices	Produce and distribute a Commercial Customer oriented contamination notice for use in instances where the Customer includes prohibited materials in a Container.	As Needed

**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Redbox+ Dumpsters of Orange County

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3 Actions for Damages.....46

19 ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS
AND LIMITATIONS46

20 GENERAL PROVISIONS47

20.1 Force Majeure47

20.2 Property Damage47

20.3 Pavement Damage47

20.4 Right of Entry47

20.5 City’s Authorized Agent47

20.6 Amendments48

20.7 Independent Contractor.....48

20.8 Law to Govern; Venue.....48

20.9 Joint Drafting48

20.10 Section Headings48

20.11 Successors and Assigns.....48

20.12 Waiver48

20.13 Notices49

20.14 Severability49

20.15 Exhibits Incorporated.....49

20.16 Attorneys’ Fees and Litigation Costs.....49

20.17 Corporate Resolution49

20.18 Integration49

20.19 Compliance with Law50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and Redbox+ Dumpsters of Orange County (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 ☐ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 ☐ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 ☐ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 ☐ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 ☐ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 ☐ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~the~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~the~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 ☐ Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 ☐ CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 ☐ Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Redbox+ Dumpsters of Orange County
219 N. Lincoln Ave
Corona, CA 92882

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

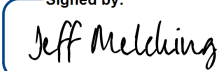
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 ☐ Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

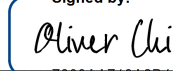
IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA40F95474A7...
City Attorney

Date: 9/3/2024

Signed by:

7809AA719A2B4C7...
City Manager

ATTEST:

Date: 9/3/2024

DocuSigned by:

0FCAD91F02E547D...
City Clerk

Date: 8/27/2024


Franchisee Redbox+ Dumpsters of Orange County
By: 
Title: President

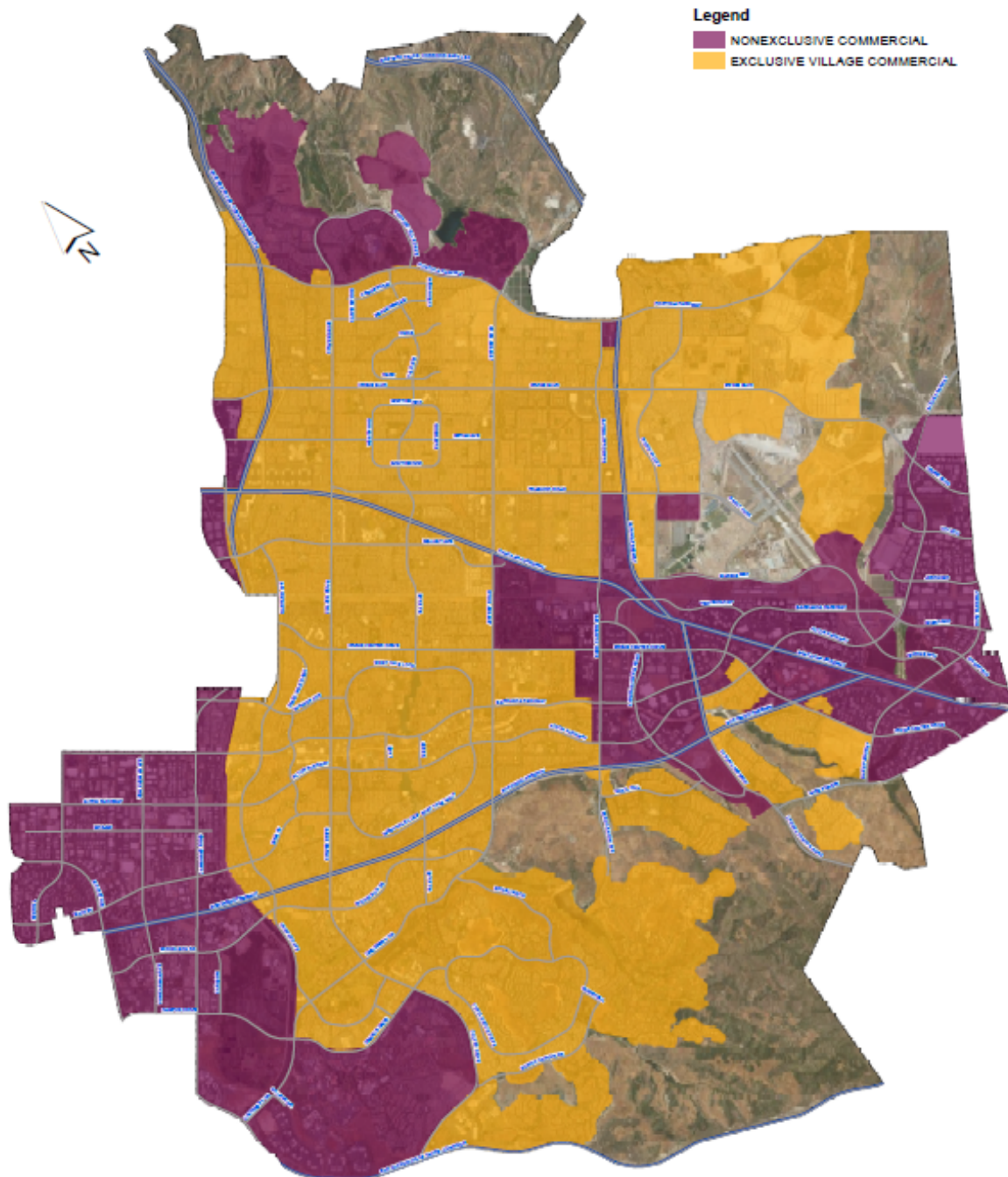
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

L2

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Commercial - Roll Off**WORKERS' COMPENSATION DECLARATION**


I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/27/2024
Contracting Firm:	Redbox+ Dumpsters of Orange County
Signature:	
Title:	President
Address:	219 N. Lincoln Ave. Corona, CA 92882



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/19/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Automatic Data Processing Insurance Agency, Inc. 1 Adp Boulevard Roseland NJ 07068		CONTACT NAME: Automatic Data Processing Insurance Agency, Inc. PHONE (A/C, No, Ext): 1-800-524-7024 FAX (A/C, No): E-MAIL ADDRESS: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td colspan="2">INSURER A: State Compensation Insurance Fund</td> <td>35076</td> </tr> <tr> <td colspan="2">INSURER B:</td> <td></td> </tr> <tr> <td colspan="2">INSURER C:</td> <td></td> </tr> <tr> <td colspan="2">INSURER D:</td> <td></td> </tr> <tr> <td colspan="2">INSURER E:</td> <td></td> </tr> <tr> <td colspan="2">INSURER F:</td> <td></td> </tr> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A: State Compensation Insurance Fund		35076	INSURER B:			INSURER C:			INSURER D:			INSURER E:			INSURER F:		
INSURER(S) AFFORDING COVERAGE		NAIC #																						
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INSURER B:																								
INSURER C:																								
INSURER D:																								
INSURER E:																								
INSURER F:																								
INSURED Clear Tide DBA: REDBOX+ OF ORANGE COUNTY 4248 CORTE DE LA SIENA SAN DIEGO CA 92130																								

COVERAGES**CERTIFICATE NUMBER:** 3473514**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$	
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/>						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	N	9270685-2024	02/23/2024	02/23/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

SBA Loan# 3846709101

CERTIFICATE HOLDER**CANCELLATION**

U.S. Small Business Administration c/o BFC Funding 1055 West 7th Street, Suite 2250 Los Angeles CA 90017	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE</p>
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REDBPLU-25

KHELURAMV



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER McNamara Company 1330 Highway 96 E White Bear Lake, MN 55110	CONTACT NAME: PHONE (A/C, No, Ext): (651) 426-0607		FAX (A/C, No): (651) 426-5790
	E-MAIL ADDRESS:		
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Star Insurance - AmeriTrust Group		18023
	INSURER B : Kinsale Insurance Company		38920
INSURED Clear Tide dba redbox + of San Diego County 4248 Corte De La Siena San Diego, CA 92130	INSURER C : Appalachian Underwriters, Inc.		10316
	INSURER D :		
	INSURER E :		
	INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			CP0952239 03	3/15/2024	3/15/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			CA0952239 03	3/15/2024	3/15/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			0100236108-1	3/15/2024	3/15/2025	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Equipment Floater			CP0952239 03	3/15/2024	3/15/2025	351,557
C	Pollution Liab			G73532826002	3/15/2024	3/15/2025	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 40416558 2021 KENWORTH T370 HOOKLIFT TRUCK 2NKHLJ9X5MM436155 10YD REDBOX+ BINS
 40435246 2022 KENWORTH T370 40K OUTSIDE RAIL HOOKLIFT TRUCK, 202 2NKHLJ9X5NM437226 10YD REDBOX+ CONTAINERS
 Western Equipment Finance and it assignees is listed as Loss payee with respects to the

CERTIFICATE HOLDER

CANCELLATION

Western Equipment Finance c/o ALI 707 Texas Ave Suite 200D College Station, TX 77840	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/11/2024

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PRODUCER Next First Insurance Agency, Inc. PO Box 60787 Palo Alto, CA 94306	CONTACT NAME: PHONE (A/C, No. Ext): (855) 222-5919 E-MAIL ADDRESS: support@nextinsurance.com FAX (A/C, No): INSURER(S) AFFORDING COVERAGE INSURER A: State National Insurance Company, Inc. INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	NAIC # 12831
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COVERAGES

CERTIFICATE NUMBER: 540869763

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			NXTFD33J93-00-GL	10/11/2024	10/11/2025	EACH OCCURRENCE \$1,000,000.00
			DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000.00				
			MED EXP (Any one person) \$15,000.00				
			PERSONAL & ADV INJURY \$1,000,000.00				
						GENERAL AGGREGATE \$2,000,000.00	
						PRODUCTS - COMP/OP AGG \$2,000,000.00	
							\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$
							AGGREGATE \$
							\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
							E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Proof of Insurance.

CERTIFICATE HOLDER

CLEAR TIDE Redbox+ of Orange County
219 N Lincoln Ave
Corona, CA 92882

LIVE CERTIFICATE



[Click or scan to view](#)

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Ann Ryan

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EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)



Hauler Facility List

Facility Type (may be multiple)							
Facility Name	RDRS #	Recycler/				Address	Phone Number
		Transfer	Processing	Composter	Disposal		
Olinda Alpha Landfill	RD10278				X	1942 Valencia Ave	(714) 834-4000
Frank R. Bowerman Landfill	RD10279				X	11002 Bee Canyon Access Rd	(714) 834-4000
Prima Descha Landfill	RD10280				X	32250 v La Pata	(714) 834-4000
Azusa Land Reclamation, Inc.	RD10038				X	1211 W. Gladstone	(951) 786-0544
Agua Mansa MRF & Transfer Station	RD10422	X	X	X		1830 Agua Mansa Road	(951) 786-0544
LACSD/ Downey Area Recycling & Transfer	RD10179	X	X			9770 Washburn Road	(562) 622-3503
EDCO Recycling & Transfer Signal Hill	RD10491	X	X			2755 California Ave	562-597-0608
El Sobrante Landfill	RD10167		X		X	10910 Dawson Canyon Rd	(866) 909-4458
Ewles Materials - Irvine Plant	RD10777			X		16081 Construction Circle West	
Ewles Materials - SJC Plant	RD10778			X		32501 Ortega Hwy	
Madison Materials Inc.	RD10932	X	X			1035 E 4th St	877 714 9273
CR Transfer (Stanton Recycling & TS)	RD10951	X	X	X		11232 Knott Ave	(714) 890-6300
OC Exchange - 1016 E. Katella Ave.	unknown			X		1016 East Katella Ave.	657-250-3130
Pomona Valley Transfer - 1371 E. 9th St.	unknown	X	X			1371 East 9th Street	(909) 643-2225
CVT Regional Material Recovery Facility and Transfer Station	RD10570	X	X	X		2775 E Gretta Ln	(714) 238-3344
Bel-Art Waste Transfer Station	RD10148	X	X			2495 East 68th Street	(562) 259-2872
SA RECYCLING - Recycler/Composter	RD11792			X		3200 E Frontera St	(714) 630-8901
Tierra Verde Industries EcoCentre	RD11187	X	X	X		6900 Marine Way, Irvine	(949) 551-0363
Waste Management - Sunset	RD10229	X	X	X		16122 Construction Cir W	(949) 552-0446
Chandler's Recycling & Crusher	unknown			X		24980 Matri Rd.	(951) 277-5915
Griffith (crusher)	unknown			X		11501 Jeffrey Road	(562) 519-1998

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Exhibit E**Implementation, Outreach and Education Plan****Construction and Demolition Recycling
SB 1383 Compliance Guide – City of Irvine**

In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

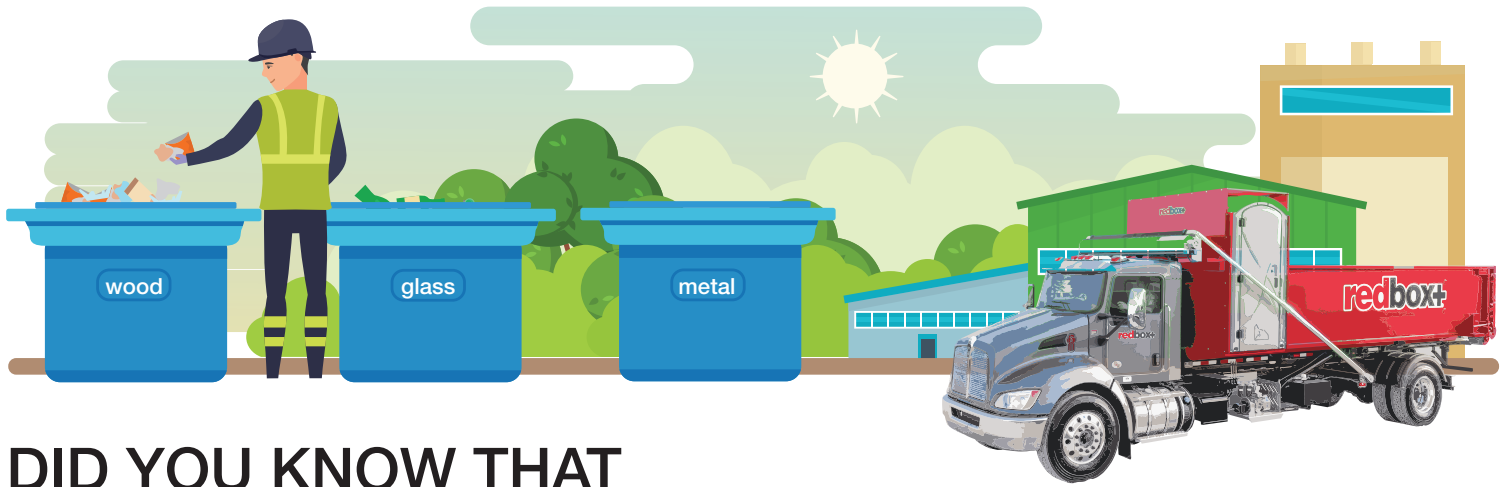
What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.





DID YOU KNOW THAT CONSTRUCTION WASTE RECYCLING IS REQUIRED?

AB341: Mandatory Commercial Recycling
requires all businesses that generate 4 cubic yards
or more of waste per week to arrange for recycling services.



AB1826: Mandatory Commercial Organics Recycling
requires all businesses that generate 4 cubic yards or more
of organic waste to arrange for organic waste recycling services.
Organics include food, yard trimmings, nonhazardous wood, and food soiled paper.

**SB1374: Mandatory Construction
& Demolition Debris Recycling**
requires a city, county, or regional agency to submit an annual report
to the board summarizing its progress in diverting solid waste from disposal.



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**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Robert's Waste & Recycling

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3 Actions for Damages.....46

19 ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS
AND LIMITATIONS46

20 GENERAL PROVISIONS47

20.1 Force Majeure47

20.2 Property Damage47

20.3 Pavement Damage47

20.4 Right of Entry47

20.5 City’s Authorized Agent47

20.6 Amendments48

20.7 Independent Contractor.....48

20.8 Law to Govern; Venue.....48

20.9 Joint Drafting48

20.10 Section Headings48

20.11 Successors and Assigns.....48

20.12 Waiver.....48

20.13 Notices49

20.14 Severability49

20.15 Exhibits Incorporated.....49

20.16 Attorneys’ Fees and Litigation Costs.....49

20.17 Corporate Resolution49

20.18 Integration49

20.19 Compliance with Law50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and Robert's Waste & Recycling (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

2.58.1 ☐ Commercial Edible Food Generator

2.58.2 ☐ Edible Food

2.58.3 ☐ Food Recovery

2.58.4 ☐ Food Recovery Organization

2.58.5 ☐ Food Recover Service

2.58.6 ☐ Large Event

2.58.7 ☐ Large Venue

2.58.8 ☐ Organic Waste

2.58.9 ☐ Tier One Commercial Edible Food Generator

2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1□ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2□ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3□ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4□ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5□ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6□ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 The number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 A report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 The number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Robert's Waste & Recycling
P.O. Box 10610
Santa Ana, CA 92711

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

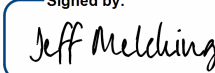
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.


IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F95474A7...
City Attorney

Date: 8/30/2024

Signed by:

7809AA719A2B4G7...
By: City Manager

ATTEST:

Date: 8/30/2024

DocuSigned by:

0ECAD91F02E547D...
By: City Clerk

Date: 08/27/2024


Franchisee Robert's Waste & Recycling
By: 
Title: President

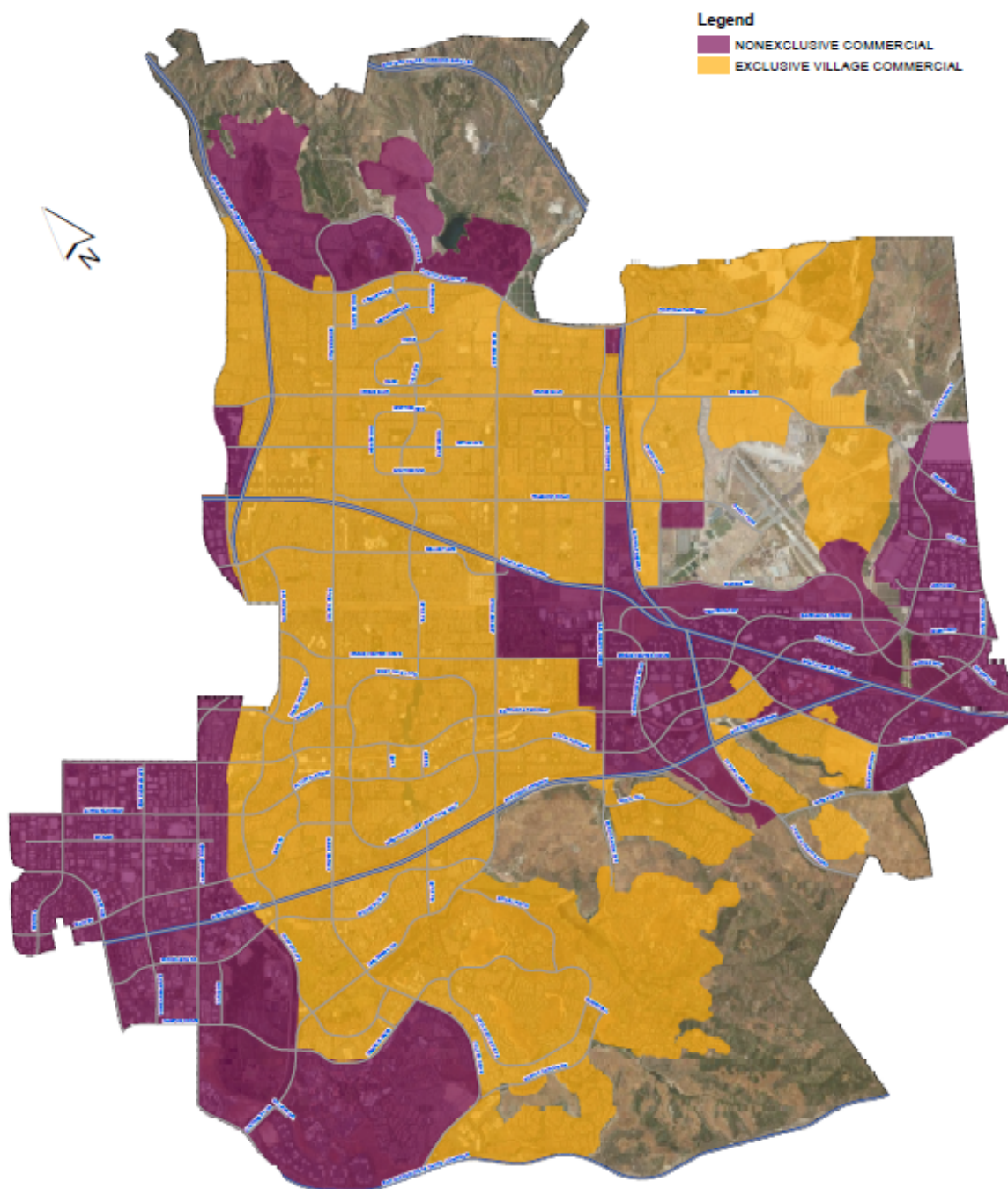
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C

Workers' Compensation Insurance Certification

Contract Services Description: Waste Hauling

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	08/27/2024
Contracting Firm:	Robert's Waste & Recycling
Signature:	
Title:	President
Address:	PO BOX 10610, Santa Ana, CA 92711



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

09/01/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brown & Brown Insurance Services of California, Inc P.O. Box 743182 Irvine CA 90074-3182	CONTACT NAME: Liz Martin PHONE (A/C, No, Ext): (714) 221-1800 FAX (A/C, No): (714) 221-4196 E-MAIL ADDRESS: Liz.Martin@bbrown.com <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Greenwich Insurance Company</td> <td>22322</td> </tr> <tr> <td>INSURER B: XL Specialty Insurance Company</td> <td>37885</td> </tr> <tr> <td>INSURER C: Indian Harbor Insurance Company</td> <td>36940</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Greenwich Insurance Company	22322	INSURER B: XL Specialty Insurance Company	37885	INSURER C: Indian Harbor Insurance Company	36940	INSURER D:		INSURER E:		INSURER F:	
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INSURER D:															
INSURER E:															
INSURER F:															
INSURED Robert's Waste & Recycling PO Box 10610 Santa Ana CA 92711															

COVERAGES**CERTIFICATE NUMBER:** 23/24 MASTER**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			GEC300161902	09/01/2023	09/01/2024	EACH OCCURRENCE	\$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						MED EXP (Any one person)	\$ 10,000
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PERSONAL & ADV INJURY	\$ 1,000,000
	OTHER:						GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
A	AUTOMOBILE LIABILITY			AEC005976202/AEC005976302	09/01/2023	09/01/2024	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
	<input checked="" type="checkbox"/> 10							\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB			UEC006196101/SE23EXCZ0985	09/01/2023	09/01/2024	EACH OCCURRENCE	\$ 9,000,000
	<input type="checkbox"/> EXCESS LIAB						AGGREGATE	\$ 9,000,000
	<input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000							\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y / N	N / A				E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
C	Pollution			PEC005977301	09/01/2023	09/01/2025	Each Condition:	\$1,000,000
							Aggregate:	\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Operations of named insured as on file with insurance carrier.

Evidence of Coverage Only.

CERTIFICATE HOLDER**CANCELLATION**

Western National Contractors
8 Executive Circle

Irvine

CA 92614

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

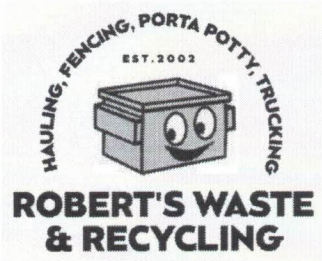
Kelly Puhon

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EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)



Hauler Facility List

Facility Name	RDRS #
Olinda Alpha Landfill	RD10278
Frank R. Bowerman Landfill	RD10279
Prima Descha Landfill	RD10280
Irvine Transfer Station and MRF (WM)	RD10233
Tierra Verde Industries	RD11187
Rainbow Transfer	RD10231
Maitri Road Recycling	RD12781
Griffith Company (Hicks Canyon Recycle)	
Madison Materials	RD10933
SA Recycling	RD11792
EDCO Recycling & Transfer Signal Hill	RD10491
Certified Recycling	RD13236
Waste Management of Orange	RD10117

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Robert's Waste Diversion Plan & Summary

Over the past 5 years, we have consistently been able to meet our required diversion percentage goals. Thanks to the education provided to customers and competitive rates, we have been able to take the majority of our temporary customers' loads to Material Recovery Facilities. The number of loads taken directly to the landfill has continued to decrease every year. Despite the cheaper rates of dumping directly at landfills and the 20-25% rate increases for C&D over the past 2-3 years, our business model has allowed us to place diversion over company profit. Our C&D customers have without fail been able to meet their diversion and LEED requirements. We always guarantee a 65% minimum diversion rate, however we on average hit rates of 77-80% diversion

The majority of 10yd loads are recycled at a 100 rate%. To ensure this, we will divert mixed loads to our yard to separate waste by hand to then take 100% concrete, asphalt, and inert loads to qualified diversion facilities such as Bowerman (Asphalt), Griffith (Concrete), and Maitri Road Recycling (Inert).

We continue to update all customers on diversion efforts and to educate on the importance of separating waste. Prior to implementation of commercial service, we ensure that new customers sign up for mandatory recycling programs at the onset and make them aware of all the state-mandated programs such as AB-939, AB-1826, and SB-1383. We will not sign up any customers for trash only service unless city-issued waivers are provided.

Thanks to consistent efforts by staff in educating customers on all programs mandated by the state, as well as explaining the benefits of source-separating and diverting waste, all commercial accounts across as jurisdictions have become compliant, whether with recycling programs or waivers.

Our company purchased new routing software to assist in the tracking loads and to maximize reporting efforts to accommodate for company growth. An additional front-loader was purchased at the end of 2023 to help service increased recycling streams for commercial accounts. The new software allows drivers to take photos of all containers serviced and uploaded to ensure compliance and to address any non-service issues. All blue recycling containers are taken to our yard to source separate and then taken to proper recycling facilities, such as Certified for cardboard loads and SA Recycling for aluminum loads.

We have a dedicated employee to do weekly container/lid flip checks to verify any contamination. Each front-loader driver has a helper with them to check the containers for contamination prior to dumping them. They will have spreadsheets to document any contamination and utilize the new software to document loads live.

A new dedicated organics route has been established to prevent cross contamination of streams.

**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Southern California Environmental, Inc

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3 Actions for Damages.....46

19 ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS
AND LIMITATIONS46

20 GENERAL PROVISIONS47

20.1 Force Majeure47

20.2 Property Damage47

20.3 Pavement Damage47

20.4 Right of Entry47

20.5 City’s Authorized Agent47

20.6 Amendments48

20.7 Independent Contractor.....48

20.8 Law to Govern; Venue.....48

20.9 Joint Drafting48

20.10 Section Headings48

20.11 Successors and Assigns.....48

20.12 Waiver48

20.13 Notices49

20.14 Severability49

20.15 Exhibits Incorporated.....49

20.16 Attorneys’ Fees and Litigation Costs.....49

20.17 Corporate Resolution49

20.18 Integration49

20.19 Compliance with Law50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and Southern California Environmental, Inc (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment.

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 ☐ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 ☐ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 ☐ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 ☐ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 ☐ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 ☐ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~The~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~The~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 ☐ Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 ☐ CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 ☐ Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□ any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□ any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□ any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Southern California Environmental, Inc
817 Fairway Dr.
Walnut, CA 91789

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:
Jeff Melching
E04AA49F95474A7...
City Attorney

Date: 8/30/2024

Signed by:
Oliver Chi
7809AA719A2B4C7...
City Manager

ATTEST:

Date: 8/30/2024

DocuSigned by:
Carl Pate
0ECAD941E02E547D...
City Clerk

Date: 08/26/2024

Franchisee Southern California Environmental, Inc.
By: Mal S
Title: President

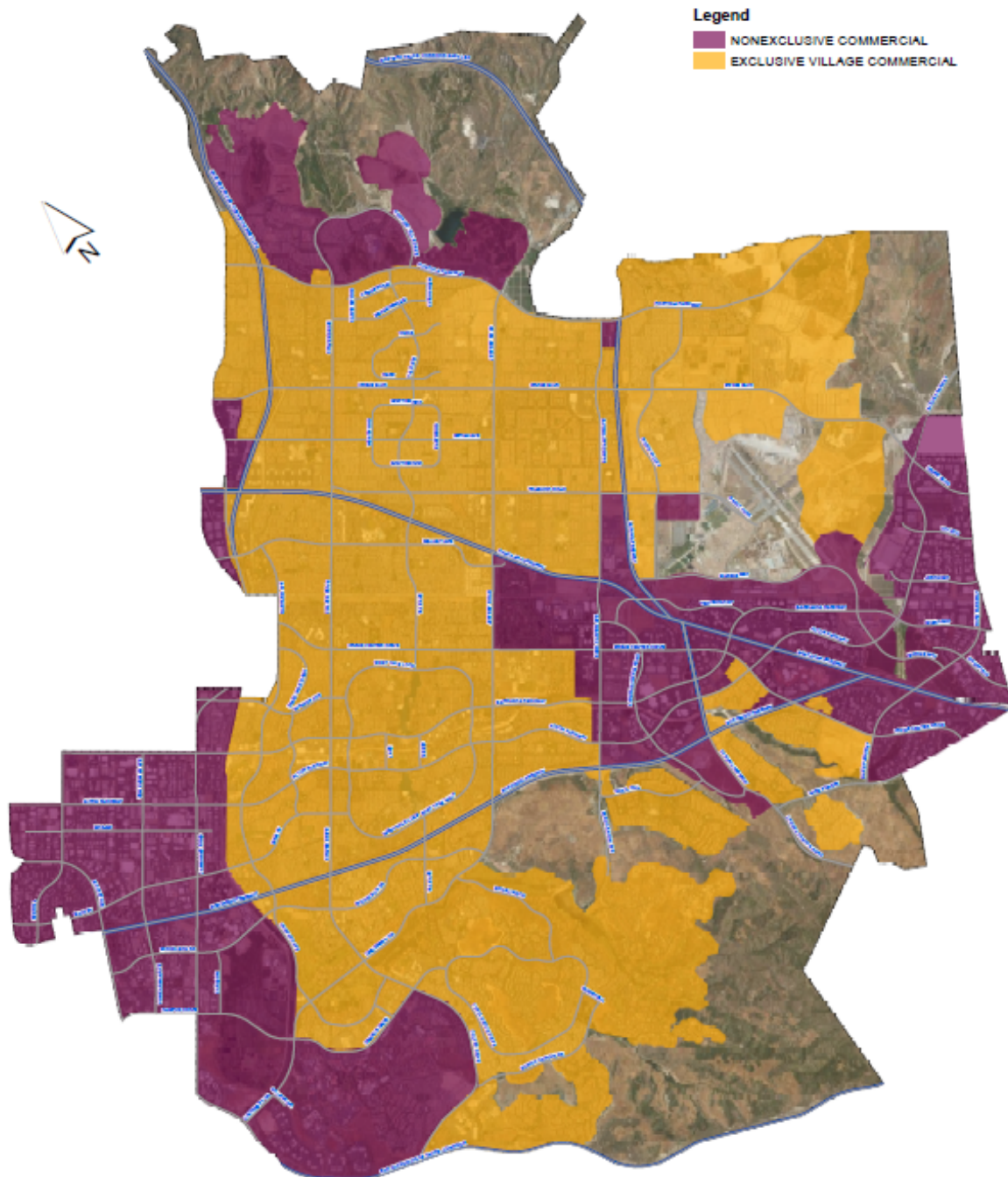
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: C & D Roll Off Service**WORKERS' COMPENSATION DECLARATION**


I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	08/26/2024
Contracting Firm:	Southern California Environmental, Inc.
Signature:	
Title:	President
Address:	817 Fairway Dr. Walnut, CA 91789



SOUTCAE-01

AKANG

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/27/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Paramount Exclusive Insurance Services, Inc. 15760 Ventura Blvd. Suite 500 Encino, CA 91436	CONTACT NAME: PHONE (A/C, No, Ext): (818) 986-7283		FAX (A/C, No): (818) 986-4949
	E-MAIL ADDRESS: service@paramountexclusiveins.com		
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Associated Industries Ins Co		23140
INSURED SOUTHERN CA ENVIRONMENTAL INC 9151 Atlanta Ave #5695 Huntington Beach, CA 92615	INSURER B : Nautilus Insurance Company		17370
	INSURER C : Service American Indemnity Company		39152
	INSURER D : Certain Underwriters at Lloyd's, London		
	INSURER E :		
	INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			AES120231204	9/24/2023	9/24/2024	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			AN1294139	9/24/2023	9/24/2024	EACH OCCURRENCE \$ 5,000,000
							AGGREGATE \$
							Aggregate \$ 5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below			SAWKPIH00368004	7/7/2024	7/7/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
							E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Pollution			ECOC556152R8	5/14/2024	5/14/2025	Aggregate 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

City of Irvine

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
Express Recycling	Mixed C&D	2221 E. Washington Blvd. Los Angeles, CA. 90021	213-465-7775	?
Republic Services	Mixed C&D	17121 Nichols Lane Huntington Beach, CA. 92647	800-299-4898	n/a
Republic Services	Mixed C&D	1131 N. Blue Gum St. Anaheim, CA. 92806	800-700-8610	n/a
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Exhibit E**Implementation, Outreach and Education Plan****Construction and Demolition Recycling
SB 1383 Compliance Guide – City of Irvine**

In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Universal Waste Systems, Inc.

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles.....	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement.....	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers.....	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General	24
9.2	Air Quality/Fuel Requirements.....	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements.....	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance.....	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements.....	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City's Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys' Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and Universal Waste Systems, Inc (UWS) (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA” – 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3 AB 1594. "AB 1594" shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4 AB 1826. "AB 1826" shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5 Animal Waste. "Animal Waste" shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6 Applicable Laws. "Applicable Laws" shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City's Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7 Approved Facility/ies. "Approved Facility" or "Approved Facilities" shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8 Bins. "Bins" shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9 CalRecycle. "CalRecycle" shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq. ("Act"), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10 Cart. "Cart" shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11 City. "City" shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12 City Council. "City Council" shall mean the City Council of the City of Irvine.

2.13 City Indemnitees. "City Indemnitees" shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14 City Limits. "City Limits" shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15 City Manager. "City Manager" shall mean the City Manager of the City of Irvine or his or her designee.

2.16 Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17 Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18 Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19 Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20 Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21 County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22 Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23 Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24 Effective Date. “Effective Date” shall mean September 1, 2024.

2.25 Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26 Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27 Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28 Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29 Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30 Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31 Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32 Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term "Hazardous Contaminant" shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. "Hazardous Substance" shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances," "Hazardous Materials," "Hazardous Wastes," "Toxic Waste," or "Toxic Substances" or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl's ("PCBs"), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. "Hazardous Waste" shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. "Mixed-Use Development" shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term "Mixed-use development" as set forth and defined in City's Municipal Code.

2.36 Multi-Family Dwelling. "Multi-Family Dwelling" shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. "Municipal Code" shall mean City's Municipal Code of Ordinances, including City's Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38 Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39 NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40 Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41 Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42 Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43 Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44 Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45 Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46 Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47 Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49 Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50 Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51 Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52 SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53 Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54 Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55 Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56 Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 Village Commercial Premises Map. "Village Commercial Premises Map" shall mean the map attached hereto as Exhibit A, titled "Commercial Solid Waste Collection Service Areas." The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as "Village Commercial Premises" and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as "Non-exclusive Commercial" on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 Commercial Edible Food Generator
- 2.58.2 Edible Food
- 2.58.3 Food Recovery
- 2.58.4 Food Recovery Organization
- 2.58.5 Food Recover Service
- 2.58.6 Large Event
- 2.58.7 Large Venue
- 2.58.8 Organic Waste
- 2.58.9 Tier One Commercial Edible Food Generator
- 2.58.10 Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2 Amendments to Scope of Franchise; Planning Area 51

3.2.1 The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2 As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3 As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4 Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 Limitations on Scope of Franchise.

3.4.1 *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7
GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES
PROVIDED BY FRANCHISEE

7.1 Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the "Approved Facilities"). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager's approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee's Collection Vehicles to only utilize such routes, when necessary, in the City Manager's reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 Franchisee's proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4 Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10 Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11 Franchisee's Containers

7.11.1 Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2 Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3 Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4 All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5 Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6 All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7 Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1 Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2 On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3 Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4 If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4 Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1 *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2 *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5 Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1 Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2 Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3 In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4 Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5 Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6 Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6 Precautions Regarding the Collection of Hazardous Materials.

8.6.1 *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2 *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7 Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1 As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2 Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3 At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1 Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2 Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3 Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4 Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5 Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6 Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8 Assistance with Organic Recycling Waivers

8.8.1 Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2 City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3 Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9 Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10 Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 General

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

9.2 Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6 As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7 Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8 Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9 Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10 Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11 Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12 Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13 Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14 Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15 No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16 Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17 Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18 Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19 The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4 Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5 City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6 Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3 the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4 a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5 a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6 a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7 the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8 the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9 the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10 a report of contamination monitoring activities including:

10.4.10.1 the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2 a description of the process used for determining the level of contamination;

10.4.10.3 a summary of actions taken in cases where contamination was identified

10.4.11 a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12 a report of activities related to Edible Food Generators including:

10.4.12.1 the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2 the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 a report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the "SB 1383 Compliance Reimbursement Payment"). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee's "Designated Annual SB 1383 Contribution" shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee's Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee's Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee's Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) Assist City in responding to inquiries from CalRecycle;

(b) Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 General Indemnification.

15.1.1 Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2 Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material," the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City's authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3 The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2 Hazardous Substances Indemnification.

15.2.1 Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims, (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1 results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2 relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2 Franchisee's obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1 any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2 any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3 any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4 any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3 Additional Indemnification Requirements.

15.3.1 The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2 The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3 With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4 Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5 Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1 Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2 Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4 Workers’ Compensation Insurance.

16.4.1 In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5 Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6 Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3 In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5 City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6 City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7 Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8 Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1 Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2 Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3 Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4 Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9 City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1 Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2 Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3 Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 **Force Majeure.** Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 **Property Damage.** Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 **Pavement Damage.** Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 **Right of Entry.** Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 **City's Authorized Agent.** Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

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

20.11 Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Universal Waste Systems, Inc.
Attention: Michelle Newsham
9010 Norwalk Blvd
Santa Fe Springs, CA 90670

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F95474A7...
City Attorney

Date: 9/3/2024

Signed by:

7809AA749A2B4C7...
By: City Manager

ATTEST:

Date: 9/3/2024

DocuSigned by:

0FCAD91F02E547D...
By: City Clerk

Date: 8/30/2024

Franchisee Universal waste Systems, Inc.

By: Mark Blackburn President

Title: 

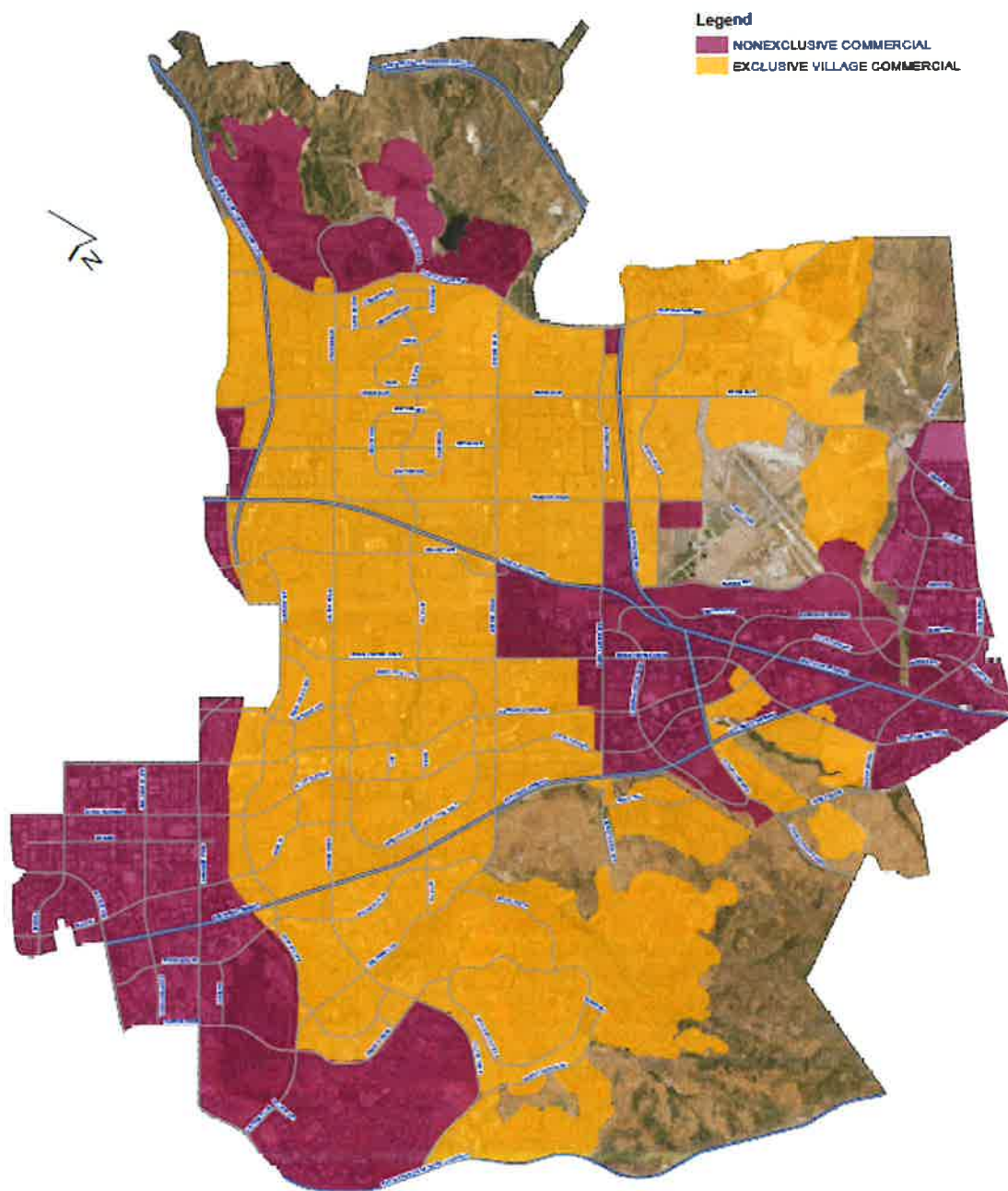
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**Contract Services Description: Solid Waste, Recycling & Organics Hauling / Processing**WORKERS' COMPENSATION DECLARATION**

I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/28/24
Contracting Firm:	Universal Waste Systems, Inc.
Signature:	
Title:	Michelle Newsham Reporting/Compliance Mgr
Address:	9010 Norwalk Blvd - Santa Fe Springs, CA 90670



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/29/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, LLC 745 Francis Street San Luis Obispo CA 93401 License#: 0D69293 UNIVWAS-04	CONTACT NAME: Erin Viker PHONE (A/C, No, Ext): 877-730-1222 FAX (A/C, No): 805-545-8224 E-MAIL ADDRESS: <table style="width: 100%;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Nautilus Insurance Company</td> <td style="text-align: center;">17370</td> </tr> <tr> <td>INSURER B: National Interstate Insurance Company</td> <td style="text-align: center;">32620</td> </tr> <tr> <td>INSURER C: Vanliner Insurance Company</td> <td style="text-align: center;">21172</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Nautilus Insurance Company	17370	INSURER B: National Interstate Insurance Company	32620	INSURER C: Vanliner Insurance Company	21172	INSURER D:		INSURER E:		INSURER F:	
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INSURER F:															
INSURED Universal Waste Systems, Inc 9016 Norwalk Boulevard Santa Fe Springs, CA 90670															

COVERAGES**CERTIFICATE NUMBER:** 72040168**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	ECP2044051-10	7/1/2024	7/1/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Pollution Liability \$ 1,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	WAR 8310012-07	7/1/2024	7/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			FFX2044052-10	7/1/2024	7/1/2025	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	VRW 8310012-05	7/1/2024	7/1/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Certificate Holder is named as additional insured with respects to General Liability/Pollution Liability per ECP12460121 and Auto Liability per NI CA 50 57 06 14. Coverage is primary and noncontributory per Endorsement ECP12460121 and CA04491116. Waiver of subrogation applies per attached ECP120600121, CA04441013 and WC0403064-84. Excess to follow form (GL/AL/EL)

Additional Insured: City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers

CERTIFICATE HOLDER**CANCELLATION**

City of Irvine
 P.O. Box 19575
 Irvine CA 92623
 United States

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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POLICY NUMBER: WAR 8310012 06

COMMERCIAL AUTO
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: UNIVERSAL WASTE SYSTEMS, INC.

Endorsement Effective Date: 07/01/2024

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

Coverage provided by this endorsement applies on a blanket basis when required in a written contract.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED -- OWNERS, LESSEES OR CONTRACTORS
AUTOMATIC STATUS – ONGOING OPERATIONS – COVERAGE A, B, D.1 & D.4**

Policy Number	Policy Effective Date	Policy Expiration Date	Endorsement Effective Date
ECP2044051-10	07/01/2024	07/01/2025	07/01/2024

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

I. SECTION III – WHO IS AN INSURED is amended to include as an additional **insured**:

- Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement, in effect during this **policy period**, that such person or organization be added as an additional **insured** on this policy; and
- Any other person or organization you are explicitly required to add as an additional **insured** under the contract or agreement described in Paragraph 1. above.

Such contract or agreement must be executed and in effect prior to the performance of **your work** which is the subject of such contract or agreement.

Such person(s) or organization(s) is an additional **insured** only with respect to liability for **bodily injury** or **property damage** under **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Coverage D.1 – Contractors Pollution Legal Liability** and **Coverage D.4 – Microbial Substance Contractors Pollution Liability**, or personal injury or advertising injury under **SECTION I - COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY** directly caused by:

- Your acts or omissions; or
- The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional **insured** described in Paragraph 1. or 2. above.

However, the insurance afforded to such additional **insured** described above:

- Only applies to the extent permitted by law; and
- Will not be broader than that which you are required by the contract or agreement to provide for such additional **insured**, and
- Will not extend beyond that which is provided to you in this policy.

A person's or organization's status as an additional **insured** under this endorsement ends when your operations for the person or organization described in Paragraph 1. above are completed.

II. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- Bodily injury, property damage or personal and advertising injury** arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the **claims** against any **insured** allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **insured**, if the **occurrence** which caused the **bodily injury** or **property damage**, or the offense which caused the **personal and advertising injury**, involved the rendering of, or the failure to render any professional architectural, engineering or surveying services.

- Bodily injury or property damage** occurring after:
 - All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional **insured(s)** at the location of the **covered operations** has been completed; or

- (2) That portion of **your work** out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

III. With respect to the insurance afforded to these additional **insureds**, the following is added to **SECTION V – LIMITS OF INSURANCE**:

The most we will pay on behalf of the additional **insured** is the amount of insurance:

1. Required by the contract or agreement described in Paragraph I.1.; or
 2. Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

IV. With respect to the insurance afforded to these additional **insureds**, the following is added to **SECTION VI – REPORTING, DEFENSE, SETTLEMENT & COOPERATION**:

1. **Duties -- Additional Insured**

An additional **insured** must see to it that:

- a. We are notified in writing as soon as practicable of an **occurrence** or offense which may result in a **claim** or **suit**;
- b. We receive written notice of a **claim** or **suit** as soon as practicable; and
- c. A request for defense and indemnity of the **claim** or **suit** will promptly be brought against any policy issued by another insurer under which the additional **insured** may be an insured in any capacity. This provision does not apply to insurance on which the additional **insured** is a **Named Insured**, if the contract or agreement requires that this coverage be primary and noncontributory.

V. **SECTION VII – CONDITION 10. – Other Insurance** is amended by the addition of the following which supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to a person(s) or organization(s) included as an additional **insured** under this endorsement provided that:

1. The additional **insured** person(s) or organization(s) is a **Named Insured** under such other insurance; and
2. You have agreed in writing in a contract or agreement, in effect during this **policy period**, that this insurance would be primary and would not seek contribution from any other insurance available to the additional **insured** person(s) or organization(s). Such contract or agreement must be executed and in effect prior to the performance of **your work** which is the subject of such contract or agreement.

However, this provision does not apply if the other insurance available to the person(s) or organization(s) included as an additional **insured** is Owners and Contractors Protective Liability, Railroad Protective Liability, or similar project-specific, primary insurance.

VI. This endorsement does not apply to an additional **insured** which has been added to this policy by an endorsement showing the additional **insured** in a **SCHEDULE** of additional **insureds**, and which endorsement applies to that designated additional **insured**.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF SUBROGATION
(TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US)
AUTOMATIC STATUS – COVERAGE A, B & D

Policy Number	Policy Effective Date	Policy Expiration Date	Endorsement Effective Date
ECP2044051-10	07/01/2024	07/01/2025	07/01/2024

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

- I. The following is added to Paragraph 17. **Subrogation** of **SECTION VII – CONDITIONS**:
- We waive any right of recovery against any person(s) or organization(s) because of payments we make under **COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY, and COVERAGE D – CONTRACTORS POLLUTION LIABILITY** under this policy.
- Such waiver by us applies only if:
1. The **insured** has agreed in writing in a contract or agreement with such person(s) or organization(s) to waive its right of recovery; and
 2. The **insured** has waived its right of recovery against such person(s) or organization(s) prior to loss.
- This waiver does not apply in any jurisdiction where such waiver is held to be illegal or against public policy or in any situation where the person(s) or organization(s) against whom subrogation is to be waived is found to be solely negligent.
- This endorsement does not apply to any person(s) or organization(s) designated in a **SCHEDULE** of person(s) or organization(s) against whom rights of recovery have been waived.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

WAR 8310012-07

COMMERCIAL AUTO
NI CA 50 57 06 14

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
BLANKET ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
AUTO DEALERS COVERAGE FORM
TRUCKERS COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

Who Is An Insured under **COVERED AUTOS LIABILITY COVERAGE** is amended to include as an "insured", any person or organization you are required to add as an additional insured on this policy under a written contract, agreement or permit which must be:

- a. currently in effect or becoming effective during the term of the policy; and
- b. executed prior to the "bodily injury" or "property damage."

The insurance provided to this additional insured is limited as follows:

1. That person or organization is an additional insured only with respect to liability arising out of your operations performed for that additional insured as specified in the written contract, agreement or permit.
2. The limits of insurance applicable to the additional insured are those in written contract, agreement, permit or in the Declarations for this policy, whichever are less. These limits of insurance are inclusive of and not in addition to the Limit of Insurance for Liability Coverage shown in the Declarations.
3. Coverage is not provided for "bodily injury" or "property damage" arising out of the sole negligence of the additional insured.

Any coverage provided hereunder will be excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis unless a contract specifically requires that this insurance be primary.

When this insurance is in excess, we will have no duty to defend the additional insured against any "suit" if any other insurer has a duty to defend the additional insured against that "suit." If no other insurer defends, we will undertake to do so, but we will be entitled to the additional insurer's rights against all those other insurers.

All other terms and conditions of this policy remain unchanged.

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**WC 04 03 06**
(Ed. 4-84)**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT – CALIFORNIA**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be _____ of the California workers' compensation premium otherwise due on such remuneration.

Schedule**Person or Organization****Job Description**

This endorsement applies on a blanket basis when required by a written contract.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 07/01/2024

Policy No. WRW 8310012 05

Endorsement No.

Insured

Premium \$

UNIVERSAL WASTE SYSTEMS, INC.

Insurance Company

NATIONAL INTERSTATE INSURANCE COMPANY

Countersigned by _____

**WC 04 03 06**
(Ed. 4-84)

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

WASTE DIVERSION PROGRAMS, SERVICES, AND COMPLIANCE ASSISTANCE

Transfer Facilities



UWS' Santa Fe Springs Material Recovery and Transfer Facility (MRF) is designed for 2,500 tons per day and currently operating at about 1,500 tons per day. This facility has a full solid waste facility permit capable of processing all types of waste streams.

UWS is proposing to use this facility as the main hub for recyclable materials to be delivered. This facility currently has enough capacity to accommodate the tonnage from the City of Irvine without the need to re-permit or make any modifications to the operation. This facility will also be used

for process of various other waste stream which will provide for more efficient routing and program management. UWS has deployed this program design in other jurisdictions with a high degree of success.

UWS Transfer Facility

i. Facility name & address	Universal Waste Systems, Inc. 9010 and 9016 Norwalk Blvd. Santa Fe Springs, CA 90670
ii. Owner / Operator	Universal Waste Systems, Inc. 9010 and 9016 Norwalk Blvd. Santa Fe Springs, CA 90670
iii. Relationship with Proposer	Proposer owned
iv. CalRecycle SWIS #	19-AA-1140
v. Material processed	Municipal Solid Waste (MSW), Source-Separated and Commingled Recyclables and Transfer of material.
vi. Price per ton	Available upon request
vii. Capacity guarantee	UWS will guarantee adequate tonnage capacity for the City of Irvine to service the proposed franchise agreement.
viii. Estimated diversion rate	(a) Residential source-separated mixed recyclables (85%) (b) Commercial source-separated mixed recyclables (85%) (c) Commercial source-separated OCC (98%) (d) Mixed Waste Processing (25 to 35%)

Source-Separated Recyclable Processing

The source separated or commingled recyclable materials collected in the BLUE Container from Multi-Family and Commercial sources will be delivered to the UWS-owned and operated material recovery facility (MRF) in Santa Fe Springs. Here recyclables are sorted, consolidated and shipped to market through our state-of-the-art MRF complete with optical sorters, robotic arms and mechanical separation.

Residuals

Residual waste from the recyclable processing operation at the MRF will be shipped to one of the Orange County landfills for disposal. As mentioned above, these are long-term relationships with guaranteed capacity for the UWS waste stream.

Mixed Waste Processing



UWS' Santa Fe Springs Material Recovery and Transfer Facility (MRF) is designed for 2,500 tons per day and currently operating at about 1,500 tons per day. This facility has a full solid waste facility permit capable of processing all types of waste streams.

UWS is proposing to process select commercial loads ("A" route) with high levels of recyclables at this facility for the recovery of recyclable materials. This program will be deployed to any customer that does not generate food waste or is not participating in the source separated commingled recycling program. The benefit of this type of additional processing program is the ability to ensure that 100% of the commercial customers are participating in some form of recycling program.

UWS has deployed this program in other jurisdictions with a high degree of success and will work with the city staff to make this available to the Irvine customer base.

Source-Separated Recyclable and Mixed Waste Processing

i. Facility name & address	Universal Waste Systems, Inc. 9010 and 9016 Norwalk Blvd. Santa Fe Springs, CA 90670
ii. Owner / Operator	Universal Waste Systems, Inc. 9010 and 9016 Norwalk Blvd. Santa Fe Springs, CA 90670
iii. Relationship with Proposer	Proposer owned
iv. CalRecycle SWIS #	19-AA-1140
v. Material processed	Municipal Solid Waste (MSW), Source-Separated and Commingled Recyclables and Transfer of material.
vi. Price per ton	Available upon request
vii. Capacity guarantee	UWS will guarantee adequate tonnage capacity for the City of Irvine to service the proposed franchise agreement.
viii. Estimated diversion rate	(a) Residential source-separated mixed recyclables (85%) (b) Commercial source-separated mixed recyclables (85%) (c) Commercial source-separated OCC (98%) (d) Mixed Waste Processing (25 to 35%)

Green Waste Processing

The source separated green and wood waste collected in the GREEN Container from Multi-Family and Commercial generators will be delivered to the UWS-owned Greenwise Soil Technologies compost facility in South Gate. The facility has a maximum permitted capacity of 250 tons per day and provides a local in town outlet for the organic green waste from the City.



Material delivered to Greenwise will be screened through a series of devices, size reduced, composted and blended in order to make a rich soil amendment available for the commercial market. UWS through its many end-use markets (Moon Valley Nursery, Kellogg's and Bandini) to name a few will use our long relationships to ensure that the material coming from the City of Irvine always has a home and will not be landfilled or used as alternative daily cover (ADC).

The residuals and small fractions from the compost process will be returned to the one of the landfills for disposal.

Green Material Processing

<i>i. Facility name & address</i>	Greenwise Soil Technologies 10120 Miller Way South Gate, CA 90280
<i>ii. Owner / Operator</i>	(a) Landowner: City of South Gate 8650 California Ave. South Gate, CA 90280 (213) 563-9531 (b) Facility owner/operator: Greenwise Soil Technologies 9016 Norwalk Blvd. Santa Fe Springs, CA 90670 (562) 806-6366
<i>iii. Relationship to Proposer</i>	Proposer owned
<i>iv. CalRecycle SWIS #</i>	19-AA-1064
<i>v. Material processed</i>	Green material, wood waste
<i>vi. Price per ton</i>	Available upon request
<i>vii. Capacity guarantee</i>	UWS will reserve capacity at this facility to process 100% of source-separated green material collected in the City of Irvine during the proposed franchise agreement.
<i>viii. Estimated diversion rate</i>	Residential GREEN Container diversion (98%). Commercial GREEN Container diversion (98%).

Organic Waste Processing

UWS is proposing multiple options for the processing of the organic waste from the City of Irvine to meet the compliance requirements in SB1383. Because this area of diversion and recovery is still developing, we believe it is beneficial to have multiple options available to the city to meet the new legislation and diversion requirements. Therefore, we have prepared a menu of options that are priced into our rate structure and will be available to the customers.

Source-Separated Commercial Food Waste and Scraps (Large Generators)

The source separated Organic Container (brown) collected from Commercial customers that meet the minimum threshold as outlined in SB1383 will be provided with a separate container for the separation and collection of food waste and scraps. This material will be delivered directly to the Santa Fe Springs High Diversion Facility for processing. At the SFS facility, the source separated organic material will be processed through the OREX-500 for separation of the organic material from the non-organic waste. Once the organic fraction is separated, it will be delivered to the Sevana Bio-Energy facility in Rialto for further conversion into renewable natural gas (RNG) and as well as an organic rich fertilizer. This proposed program will yield a diversion rate of approximately 85 to 90% of the organic material.

Co-collected Waste and Organics (food) Container from Multi-family and Commercial Customers

UWS proposes as an alternative a co-collection of waste and organics (grey cart) from customers depending on space constraints and ease of separation with for delivery to the Santa Fe Springs High Diversion Facility. This co-collection program allows for the three (3) container program to remain in place without contaminating the green waste by adding food scraps to the waste cart. As mentioned above, our existing green waste processing technology allows for the processing and marketing of the source-separated green waste material to many high-quality vendors.



The food waste and scraps would be placed in the waste cart (grey) where most of this material is going today in order to ensure a high level of participation and the best opportunity to recover the organic material per SB1383 requirements. This material will be delivered directly to the Santa Fe Springs High Diversion Facility for processing. At the SFS facility, the waste with the organic material will be processed through the OREX-500 for separation of the organic fraction from the non-organic waste. Once the organic fraction is separated, it will be delivered to the Sevana Bio-Energy facility in Rialto for further conversion into renewable natural gas (RNG) and as well as an organic rich fertilizer. This proposed program will yield a diversion rate of approximately 40 to 50% of the organic material.

Co-collected Waste and Organics (food) Container from Multi-family and Commercial Customers

(NOTE: Co-collections will be permitted upon certification from CalRecycle and City – Currently in progress)

UWS proposes the potential for a co-collection of waste and organics from the multi-family and commercial customers for delivery to the Santa Fe Springs High Diversion Facility. This co-collection program allows for the existing collection of waste from multi-family customers to remain in place and does not require these customers to subscribe to a separate program for the collection of organics. As you know, multi-family customers and some of the commercial customers are traditionally transient in nature and education is difficult and the programs are thus tough to manage. With this proposed program, the food waste and scraps would be placed in the waste cart where most of this material is going today in order to ensure a high



level of participation and the best opportunity to recover the organic material. This material will be delivered directly to the Santa Fe Springs High Diversion Facility. At the SFS facility, the waste with the organic material will be processed through the OREX-500 for separation of the organic fraction from the non-organic waste. Once the organic fraction is separated, it will be delivered to the Anaergia Bio-Energy facility in Rialto for further conversion into renewable natural gas (RNG) and as well as an organic rich fertilizer. This proposed program will yield a diversion rate of approximately 35 to 50% of the organic material.

Conversion to Renewable Natural Gas (RNG) and High-Quality Fertilizer – Sevana Bioenergy

With mixed collection to AD, organics can be separated from MSW using an Organics Extrusion Press (OREX) and fed to an anaerobic digester to generate renewable energy. This approach utilizes existing infrastructure within the community to generate energy and fertilizer. In contrast, collecting organics in source separated bins is more costly, adds trucks to the road, and sending organics to compost facilities generates fertilizer that is volatile in value and thus causes capacity and tip fees to fluctuate unpredictably. Mixed waste collection and processing at the High Diversion Facility leverages local and existing anaerobic digestion infrastructure. This strategy avoids additional collection cost, new truck routes, and reliance on human separation. This strategy also provides certainty in processing all organics with reliable and long-term fixed price capacity.

High Diversion Organic Processing

<i>i. Facility name & address</i>	Universal Waste Systems, Inc. 9010 and 9016 Norwalk Blvd. Santa Fe Springs, CA 90670	Sevana BioEnergy Facility 503 E. Santa Ana Ave. Rialto, CA 92376
<i>ii. Owner / Operator</i>	UWS	(a) Landowner: City of Rialto 150 S. Palm Ave. Rialto, CA 92376 (909) 820-2525 (b) Owner / Operator Anaergia, Inc. 5780 Fleet Street, Suite 310 Carlsbad, CA 92008 (760) 436-8870
<i>iii. Relationship to Proposer</i>	Proposer owned	Contractual relationship
<i>iv. CalRecycle SWIS #</i>	19-AA-1140	36-AA-0446
<i>v. Material processed</i>	Food Waste and Scraps	Food Waste and Scraps
<i>vi. Price per ton</i>	Available upon request	
<i>vii. Capacity guarantee</i>	UWS will guarantee adequate tonnage capacity for the City of Norco to service the proposed franchise agreement.	
<i>viii. Estimated diversion rate</i>	See percentages list above	

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

PROGRAM IMPLEMENTATION AND PARTICIPATION

SB341 and SB1383 Implementation and Management

AB 341 (Mandatory Commercial Recycling) – Requires commercial establishments (i.e., businesses including public entities that generate 4 cubic yards or more of solid waste per week, and multi-family complexes of 5 or more dwelling units) to arrange for recycling services (i.e., recycling of containers and fiber products).

AB 827 (Recycling Containers) – Requires that businesses subject to AB 341 and AB 1826 and that are frequented by the public must provide recycling containers for public use.

AB 1826 (Mandatory Commercial Organic Waste Recycling) – Requires businesses that generate 2 cubic yards or more of commercial solid waste per week to arrange for organic waste recycling services.

SB 1383 (Organic Waste Methane Emissions Reduction) – Requires a 75% reduction in the 2014 disposal of organic waste including a 20% recovery edible food waste for human consumption.

Three key dates established by SB 1383 will occur during the term of the Franchise Agreement:

January 1, 2022. CalRecycle's regulations to meet the organic waste reduction and the edible food recovery targets take effect. Also, on this date, the enforcement provisions, including penalties for noncompliance issued by the State, take effect. Legislation (SB619 Laird) passed in 2021 has made some changes to the potential penalties and fines associated with the bill, however Cities are still required to move forward with implementation and compliance.

January 1, 2024. CalRecycle's regulations may require local jurisdictions to impose penalties for noncompliance on regulated entities subject to their authority.

January 1, 2025. The State (and presumably each jurisdiction) must achieve 75% reduction in the disposal of organic waste (from 2104 levels); and not less than 20% of currently disposed edible food must be recovered for human consumption.

Experience

In the City of Los Angeles the Zero Waste program was designed before SB 1383 was adopted and yet the program anticipated what would become the State recycling and organic waste recycling mandate.

As a Contractor for RecyLA servicing the Northeast zone, we have been able to perfect our diversion implementation plan, recruit and train our team, and hone our customer education and outreach skills. Our Zero Waste team has extensive experience in assessing our customer needs, personalizing programs and getting results. This implementation plan is a product of that experience.

Staffing

Our Zero Waste Team is made up of Zero Waste Account Representatives with public relations skills and special training and expertise to personally assist Customers with tailoring solid waste services that maximize the recovery of recyclable material and organics.

Some of the UWS Zero Waste Team.



Hear our Zero Waste Account Representatives speak RecycLA:

<https://youtu.be/vgfa-g1j870>

Identification & Outreach

The first step in compliance begins with identifying the customer and assessing their waste and recycling needs. We accomplish this by following the steps listed below.

Introductory Mailing

Sixty (60) days before the start of service, we will introduce the Recyclable and Organic Waste Recycling Program to Commercial and Multi-family Customers with a direct mailing to each Customer.

Initial Visit

Thirty (30) days following the introductory mailing, members of our Zero Waste Team will begin making personal visits with each account to introduce UWS services, confirm account information, perform a waste assessment, and create a service order with new service recommendations. The initial visit is a very important part of our outreach and education process.

Recyclable and Organic Material Program

Our preferred collection system is a hybrid, Two-Container and/or Three-Container Collection System:

Three-Container Collection System (SB1383 Compliant)

Subscribers

The three-container collection system will be used for collections from:

- Multi-Family dwellings that do not have bin collection, and
- Commercial premises that are NOT food preparation or eating establishments that generate large volumes or organics.

Containers

(Note: All references to a container of a particular color means the color of lid.)

In the Three-Container Collection System, waste generators will be provided three collection containers:

1. A GREY container for the disposal of refuse including organic waste including food and food scraps.
2. A BLUE container for diversion of commingled recyclables including paper products; and,
3. A GREEN container for diversion of yard and wood waste

In the Three-Container Collection System, 'containers' will be industry-standard Carts, Bins, Roll-Off Boxes, or Stationary Compactors appropriate for the subscriber.

- Waste generators receiving collections from Carts will generally be:
 - Multi-Family dwellings, generally with fewer than five dwellings and subscribing to individual collection, and
 - Commercial premises generating low volumes or that are unable to subscribe to bin service due to a lack of bin enclosure space.
- Waste generators receiving collections from Bins will generally be:
 - Multi-Family complexes generally with five or more dwellings, and
 - Commercial and Industrial premises
- Waste generators receiving collections from Roll-Off Boxes and Stationary Compactors will generally be Commercial establishments generating large volumes of Solid Waste destined for disposal, source-separated Recyclables, including paper products, and/or source-separated Yard and Organic Waste.

RECYCLE *RECICLE*



800-631-7016

www.uwscompany.com

Acceptable items

Artículos aceptables

Paper & Cardboard

Papel y cartón



Metal Cans

Latas de metal



Plastic & Glass

Plástico y vidrio



Not acceptable items *(Artículos no aceptables)*

Dishes & Mirrors

Platos y espejos



Garden Hoses

Mangueras de jardín



Toys

Juguetes



Carpet & Rugs

Alfombras y tapetes



Tires & Auto Parts

Llantas y refacciones de auto



Hazardous Waste

Desechos peligrosos



Yard & Food Waste

Desechos de jardín y de comida



Furniture & Appliances

Muebles y electrodomésticos



Diapers & Pet Waste

Pañales y desechos de mascotas



Construction Waste

Desechos de construcción



Clothing & Bedding

Ropa y cobertores de cama



Plastic Bags & Styrofoam

Bolsas de plástico y recipientes de espuma



For information on **Not Acceptable Items** please call UWS Customer Service at (800) 631-7016
Para información acerca de **Artículos No Aceptables** llame a UWS Servicio al cliente al (800) 631-7016

ORGANICS *ORGÁNICOS*



800-631-7016

www.uwscompany.com

Acceptable items *(Artículos aceptables)*

Yard Waste
Desechos de jardín



Food Waste*
Desechos de comida



**Compostable Plastic /
Clear Plastic Bags**
*Plástico compostable /
Bolsas de plástico transparente*



Food-Soiled Paper & Paper Bags*
*Papel manchado de comida
y bolsas de papel*



* *You can place food in a paper bag. / Puede poner comida en una bolsa de papel.*

Not acceptable items *(Artículos no aceptables)*



Recyclables
Reciclables



Plastic Wrap
Envoltura de plástico



Trash & Pet Waste
Basura y desechos de mascotas



Construction Waste
Desechos de construcción



Fats, Oils & Grease
Grasas y aceites



Hazardous Waste
Desechos peligrosos

For information on **Not Acceptable Items** please call UWS Customer Service at (800) 631-7016
Para información acerca de **Artículos No Aceptables** llame a UWS Servicio al cliente al (800) 631-7016



What goes in my bin?



ORGANICS

- Brush
- Branches
- Flower cuttings
- Food-soiled paper
- Food waste
- Garden trimmings
- Grass
- Hay
- House plants
- Lawn clippings
- Leaves (no palms!)
- Shrubbery
- Weeds
- Yard Waste

RECYCLING

- Aluminum cans
- Brown paper bags
- Cardboard
- Catalogs/Magazines
- Cereal boxes (without liner)
- Egg cartons (paper only)
- Envelopes
- Glass bottles and jars
- Junk mail
- Newspapers and flyers
- Paper towel tubes
- Plastic bottles #1 & #2
- Shoe boxes
- Telephone books

TRASH

- Ceramics, broken glass
- Chip bags, candy wrappers
- Disposable diapers
- Juice boxes/cartons
- Motor oil cans (empty)
- Paper cups
- Pet waste/litter
- Plastic bags
- Plastic toys
- Styrofoam products
- Take-out containers
- Tissue paper
- Wax & plastic-coated cardboard



What does NOT go in my bin?



ORGANICS

- Aluminum
- Animal carcasses/feces
- Cigarette butts
- Clothing
- Diapers
- Glass
- HHW
- Landscape timbers
- Plastic bags
- Plastic containers
- Plastic straws
- Rock
- Soil
- Trash
- Styrofoam
- Treated lumber
- Tree stumps

RECYCLING

- Aerosol cans
- Batteries
- Clothes/clothes hangers
- Dirt
- Electronics
- Food waste
- Fruit/vegetable scraps
- Leaves
- Lightbulbs
- Liquids
- Mirrors
- Plants

TRASH

**PLEASE TAKE THESE TO A
HAZARDOUS WASTE
COLLECTION SITE**

- Batteries
- Chemicals
- Computers and monitors
- Electronics
- Lightbulbs
- Microwaves
- Paint and solvents
- Syringes
- Televisions
- Unused or expired prescription drugs

For questions or concerns, please contact Universal Waste Systems at (562) 334-3660 or via email at SGcustomerservice@uwscompany.com, Monday - Friday from 7 a.m. to 5 p.m. or visit www.uwscompany.com/south-gate



✓ ¿Qué va dentro de mi contenedor? ✓

ORGÁNICOS

- Arbustos
- Césped
- Cortes de césped
- Desechos alimentarios
- Desechos de jardín
- Esquejes de flores
- Heno
- Hierbas malas
- Hojas (no palma ó yucca)
- Papel sucio de comida
- Plantas de interior
- Sucursales

RECICLAJE

- Bolsas de papel
- Botellas de vidrio
- Cajas de cereales
- Cajas de zapatos
- Cartón corrugado
- Cartón de huevos de papel
- Catálogos/Revistas
- Envases de plástico #1 y #2
- Guías telefónicas
- Latas de aluminio
- Papel de oficina
- Periódicos y folletos
- Sobres
- Tubos de papel

BASURA

- Bolsas de papas fritas
- Bolsas de plástico
- Cajas/Cartones de jugo
- Cartón plastificado o con cera
- Cerámica
- Desechos de mascotas
- Envases para llevar
- Juguetes de plástico
- Latas de aceite de motor (VACIAS)
- Pañales desechables
- Pañuelos de papel
- Productos de poliestireno

✗ ¿Qué NO va a mi contenedor? ✗

ORGÁNICOS

- Aluminio
- Basura
- Bolsas de plástico
- Cigarrillos
- Desechos de animales
- Envases de plástico
- Espuma de poliestireno
- Maderas de paisaje
- Madera tratada
- Pajitas de plástico
- Pañales
- Rocas
- Ropa
- Tierra
- Tocones de árboles
- Vasos

RECICLAJE

- Bombillas
- Desperdicios de alimentos
- Electrónicos
- Espejos
- Hojas
- Latas de aerosol
- Líquidos
- Materiales de construcción
- Pilas, baterías
- Plantas
- Restos de frutas/verduras
- Ropa
- Suciedad

BASURA

POR FAVOR LLEVÉLOS A UN SITIO DE RECOGIDA DE DESECHOS PELIGROSOS

- Baterías
- Bombillas
- Computadoras y monitores
- Electrónicos
- Jeringas
- Medicamentos no usados ó con receta caducada
- Microondas
- Pinturas y disolventes
- Productos químicos
- Televisiones

Si tiene alguna pregunta o duda, comuníquese con Universal Waste Systems al (562) 334-3660 o por correo electrónico a SGcustomerservice@uwscompany.com, de Lunes a Viernes de 7 a.m. a 5 p.m. o visite www.uwscompany.com/south-gate

**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

WARE DISPOSAL INC.

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3	Actions for Damages.....	46
19	ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS	46
20	GENERAL PROVISIONS	47
20.1	Force Majeure	47
20.2	Property Damage	47
20.3	Pavement Damage	47
20.4	Right of Entry	47
20.5	City’s Authorized Agent	47
20.6	Amendments	48
20.7	Independent Contractor.....	48
20.8	Law to Govern; Venue.....	48
20.9	Joint Drafting	48
20.10	Section Headings	48
20.11	Successors and Assigns.....	48
20.12	Waiver.....	48
20.13	Notices	49
20.14	Severability	49
20.15	Exhibits Incorporated.....	49
20.16	Attorneys’ Fees and Litigation Costs.....	49
20.17	Corporate Resolution	49
20.18	Integration	49
20.19	Compliance with Law	50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and WARE DISPOSAL, INC. (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment .

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1□ Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2□ Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3□ Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4□ Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5□ Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6□ Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~the~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~the~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

(a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 ☐ Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 ☐ CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 ☐ Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□ any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□ any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□ any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ **Force Majeure.** Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ **Property Damage.** Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ **Pavement Damage.** Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ **Right of Entry.** Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ **City's Authorized Agent.** Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: WARE DISPOSAL INC.
Attn: General Manager
1035 East 4th Street
Santa Ana, CA 92701-4750

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

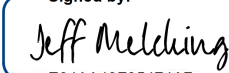
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F95474A7...
City Attorney

Date: 9/3/2024

Signed by:

7809AA719A2B4C7...
By: City Manager

ATTEST:

DocuSigned by:

0FCA091F02E547D...
Date: 9/3/2024

By: City Clerk

Franchisee WARE DISPOSAL INC.
Date: 26 August 2024


By: 
Title: President

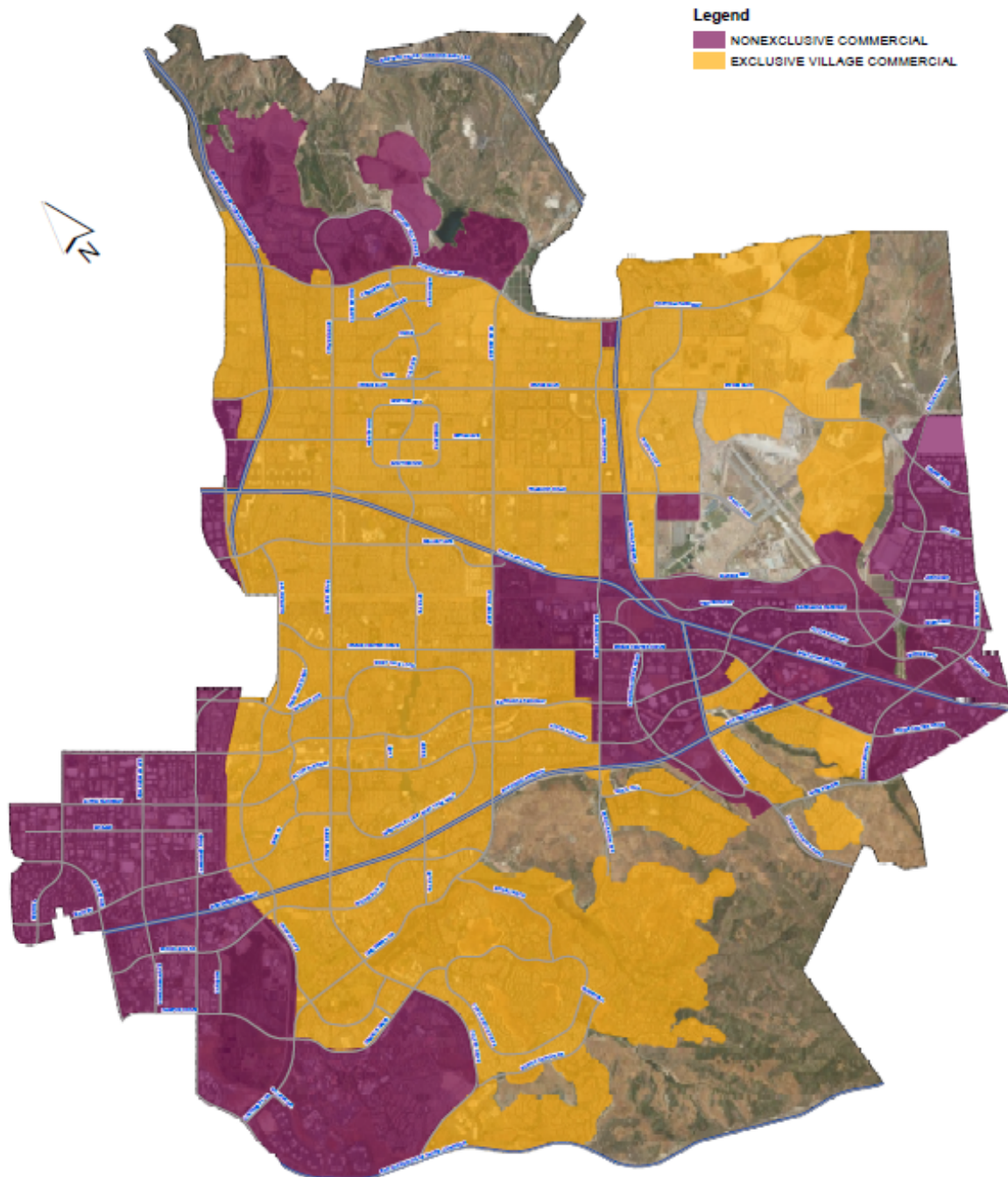
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C

Workers' Compensation Insurance Certification

Contract Services Description: Commercial Solid Waste Collection, City of Irvine

WORKERS' COMPENSATION DECLARATION

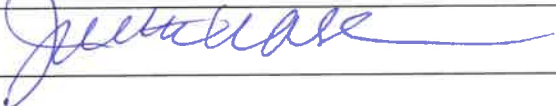
I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☒ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	26 August 2024
Contracting Firm:	WARE DISPOSAL INC.
Signature:	
Title:	President
Address:	1035 East 4th Street, Santa Ana, CA 92701-4750



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/30/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER HUB International Insurance Services Inc. PO Box 255387 Sacramento CA 95865	CONTACT NAME: Meghan Dion PHONE (A/C, No, Ext): 818-298-9798 FAX (A/C, No): E-MAIL ADDRESS: meghan.dion@hubinternational.com														
INSURED Ware Disposal Inc. P.O. Box 1318 Santa Ana CA 92702	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Greenwich Insurance Company</td> <td style="text-align: center;">22322</td> </tr> <tr> <td>INSURER B: Westchester Surplus Lines Insurance Co.</td> <td style="text-align: center;">10172</td> </tr> <tr> <td>INSURER C: Insurance Company of the West</td> <td style="text-align: center;">27847</td> </tr> <tr> <td>INSURER D: Evanston Insurance Company</td> <td style="text-align: center;">35378</td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Greenwich Insurance Company	22322	INSURER B: Westchester Surplus Lines Insurance Co.	10172	INSURER C: Insurance Company of the West	27847	INSURER D: Evanston Insurance Company	35378	INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															

 License#: 0757776
 WAREDIS-02
COVERAGES**CERTIFICATE NUMBER: 750825678****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$10,000 PD Ded. Per Occurrence GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		GEC3000730-09	2/28/2024	2/28/2025	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> CA9948 <input checked="" type="checkbox"/> MCS-90			AEC004538609	2/28/2024	2/28/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ BI/PD Deductible \$10,000
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			G46863306 007	2/28/2024	2/28/2025	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WSA 5079182-00	8/1/2024	8/1/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	Transportation Pollution Liab			MKLV7ENV104416	2/28/2023	2/28/2026	Each Poll. Condition \$5,000,000 Aggregate \$10,000,000 Retention \$10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

(General Liability Per Project Aggregate applies per written contract)

RE: Nonexclusive Franchise Agreement

Additional Insured: City of Irvine, its employees, agents, contractors, officials, volunteers, and officers as required per written contract

Forms: CG2010 1219, CG2037 1219

CERTIFICATE HOLDER**CANCELLATION**
 CITY OF IRVINE
 CITY HALL, CITY MANAGER
 1 CIVIC CENTER PLAZA
 IRVINE CA 92714

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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POLICY NUMBER: GEC3000730-09

COMMERCIAL GENERAL LIABILITY
CG 20 10 12 19**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Any person or organization where required by written contract provided that such contract was executed prior to the date of loss.	All Locations as required per written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

POLICY NUMBER: GEC3000730-09

COMMERCIAL GENERAL LIABILITY
CG 20 37 12 19**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Any person or organization where required by written contract provided that such contract was executed prior to the date of loss.	All Locations as required per written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)

Please identify the Approved Facilities as described in Section 7.6 that your company plans to utilize to comply with the requirements of the franchise agreement. Please use additional pages as necessary.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
Madison Materials	Mixed waste processing, A Route materials	1035 East 4th Street, Santa Ana, 92701 4750	714 664 0159	jason@waredisposal.com
Madison Materials	Recyclables processing	1035 East 4th Street, Santa Ana, 92701 4750	714 664 0159	jason@waredisposal.com
Madison Materials	Green waste/Mixed organics processing	1035 East 4th Street, Santa Ana, 92701 4750	714 664 0159	jason@waredisposal.com
Madison Materials	Construction and Demolition	1035 East 4th Street, Santa Ana, 92701 4750	714 664 0159	jason@waredisposal.com
Puente Hills Material Recovery Facility	Food waste	13130 Crossroads Pkw South, Industry 91746	562 908 4288 x2301	hkharrat@lacs.org
Frank R Bowerman Landfill	Residual waste materials	11002 Bee Canyon Access Road, Irvine 92602	714 834 4000	tkoutroulis@ocwr.ocgov.com

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Exhibit E**Implementation, Outreach and Education Plan****Construction and Demolition Recycling
SB 1383 Compliance Guide – City of Irvine**

In 2007, the City of Irvine adopted a Construction and Demolition (C&D) Debris Recycling and Reuse Ordinance (07-18). Under this ordinance, construction development, renovation, and demolition projects are required to recycle or reuse most of the debris generated by the project, at levels consistent with the California Green Building Standards Code. The ordinance complies with the regulations of Senate Bill 1383 and requires that a maximum amount of organic waste commingled with C&D debris is recovered.

What is Senate Bill 1383?

In 2016, Governor Brown signed into law Senate Bill 1383, the Short-Lived Climate Pollutants (SLCP) Organic Waste Methane Emissions Reduction Act, to establish statewide methane emission reduction goals.

Landfills are the third largest source of methane in California. Organic waste in landfills emit 20% of the state's methane, a climate super pollutant that is 84 times more potent than carbon dioxide. Organic materials make up half of what is dumped in the landfills. Effective January 1, 2022, Senate Bill 1383 created laws requiring organic materials to be diverted from landfills. Organic material is any material that comes from either a plant or an animal.

What types of organic materials are in C&D debris?

Common organic materials produced in construction and demolition projects include wood⁽¹⁾, paper, and cardboard. Your hauler will either offer a separate container for these materials or will have your mixed C&D waste processed at a facility that recovers a majority of organic materials.

⁽¹⁾ Most wood debris must be clean and untreated to be accepted at processing facilities. Please review your hauler's accepted materials specifications.

To find a list of authorized haulers, initiate the permitting process, or find additional C&D recycling resources, visit <https://www.cityofirvine.org/c&d>. Additional support can be reached by calling the Irvine Recycle Hotline at (949)724-7669 or emailing wmp@cityofirvine.org.



**NON-EXCLUSIVE FRANCHISE AGREEMENT FOR
COMMERCIAL SOLID WASTE COLLECTION**

BETWEEN THE CITY OF IRVINE AND

Waste Management Collection and Recycling, Inc.
dba Waste Management of Orange County

EFFECTIVE DATE:

September 1, 2024

TABLE OF CONTENTS

	<u>Page</u>
1 RECITALS	2
2 DEFINITIONS.....	2
2.1 AB 341	2
2.2 AB 939	2
2.3 AB 1594	3
2.4 AB 1826	3
2.5 Animal Waste.....	3
2.6 Applicable Laws	3
2.7 Approved Facility/ies.....	3
2.8 Bins	3
2.9 CalRecycle	3
2.10 Cart.....	3
2.11 City.....	3
2.12 City Council.....	3
2.13 City Indemnitees	3
2.14 City Limits	3
2.15 City Manager	3
2.16 Collect/Collection	4
2.17 Collection Vehicles	4
2.18 Commercial Customer	4
2.19 Commercial Premises	4
2.20 Container.....	4
2.21 County Agreement	4
2.22 Customer	4
2.23 Dwelling Unit.....	4
2.24 Effective Date	4
2.25 Environmental Laws	4
2.26 Exclusive Franchise Agreement	5
2.27 Food Waste	5
2.28 Franchisee	5
2.29 Franchise Area	5
2.30 Franchise Fee	5
2.31 Gross Receipts	5
2.32 Hazardous Contaminant.....	5
2.33 Hazardous Substance	6
2.34 Hazardous Waste	6
2.35 Mixed-Use Development	6
2.36 Multi-Family Dwelling	6
2.37 Municipal Code.....	6
2.38 Non-exclusive Franchise Agreement.....	7
2.39 NPDES.....	7
2.40 Organics Recycling Waiver	7

2.41	Premises	7
2.42	Recycle or Recycling	7
2.43	Recyclable Material (Recyclables)	7
2.44	Refuse	7
2.45	Refuse Cart.....	7
2.46	Residential Premises	7
2.47	Rolloff Box	7
2.48	SB 1383.....	7
2.49	Solid Waste	8
2.50	Solid Waste Handling Services.....	8
2.51	Special Wastes	8
2.52	SRRE.....	8
2.53	Temporary Service.....	8
2.54	Term.....	8
2.55	Transformation.....	8
2.56	Village Commercial Premises.....	8
2.57	Village Commercial Premises Map	9
2.58	Terms Defined in 14 CCR Section 18982	9
3	NON-EXCLUSIVE FRANCHISE	9
3.1	Grant and Scope of Franchise	9
3.2	Amendments to Scope of Franchise; Planning Area 51	10
3.3	Franchise Rights to Include Right to Use City Rights of Way	11
3.4	Limitations on Scope of Franchise	11
3.5	Rights in Annexed Territories.....	12
3.6	Public Resources Code Section 49523 Acknowledgment	12
3.7	Notice Pursuant to Public Resources Code Section 49520.....	12
4	ACCEPTANCE; WAIVER	12
5	TERM	13
6	CONDITIONS TO EFFECTIVENESS OF AGREEMENT	13
6.1	Accuracy of Representation.....	13
6.2	Absence of Litigation.....	13
6.3	Furnishing of Insurance and Bond or Letter of Credit.....	13
6.4	Effectiveness of City Council Action	13
7	GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES PROVIDED BY FRANCHISEE	14
7.1	Equipment	14
7.2	Compliance with Applicable Laws; Performance Standards.....	14
7.3	Noise and Disruption	14
7.4	Collection Times	14
7.5	Requirements For Handling of Source Separated Solid Waste	14
7.6	Approved Facilities	14
7.7	Collection Routes.....	15

7.8	Authorized Truck Routes; Ingres and Egress	15
7.9	No Commingling Without Consent	15
7.10	Collection and Replacement of Containers.....	16
7.11	Franchisee's Containers	16
8	MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS.....	17
8.1	Commercial Premises Refuse Collection.....	17
8.2	Commercial Premises Recycling Program	17
8.3	Commercial Premises Organic Waste Recycling Program	17
8.4	Implementation, Outreach and Education Plan	19
8.5	Container Contamination Monitoring.....	20
8.6	Precautions Regarding the Collection of Hazardous Materials	21
8.7	Edible Food Recovery.....	21
8.8	Assistance with Organic Recycling Waivers	22
8.9	Other Collection Programs As May Be Required by Law	23
8.10	Guaranteed Minimum Franchisee Recycling Rate	23
9	FRANCHISEE'S COLLECTION VEHICLES	24
9.1	General.....	24
9.2	Air Quality/Fuel Requirements	24
9.3	Specific Requirements	25
9.4	Costs of Operation and Damages.....	27
9.5	City Inspection.....	27
9.6	Correction of Defects and Removal of Vehicles from Use within City	27
10	REPORTING REQUIREMENTS	28
10.1	General Application and Interpretation	28
10.2	Use of Reporting Software.....	28
10.3	Customized Reports	28
10.4	Monthly Reports	28
10.5	Quarterly Reports.....	30
10.6	Annual Reports	30
10.7	Confidential and Proprietary Information.....	30
10.8	Format of Reports	31
10.9	Adverse Information	31
10.10	Disaster and Labor Unrest Plan	32
10.11	Failure to Report	32
11	FRANCHISEE'S CONSIDERATION	32
11.1	Franchise Fee	32
11.2	Reimbursement for SB 1383 Compliance	33
11.3	Additional Charges and Interest For Late Payments	34
12	INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS	34

12.1	Warranties and Representations.....	34
12.2	Mutual Cooperation	35
12.3	Performance Requirements	35
12.4	Annual Compliance Review	36
13	FRANCHISEE’S BOOKS AND RECORDS; AUDITS	37
13.1	Examination of Records.....	37
13.2	CERCLA Defense Records.....	37
13.3	Audits by City	37
14	RULES AND REGULATIONS OF CITY MANAGER.....	38
15	INDEMNIFICATION; LEGAL EXPENSES; BONDS	38
15.1	General Indemnification	38
15.2	Hazardous Substances Indemnification	39
15.3	Additional Indemnification Requirements.....	40
15.4	Surety	40
15.5	Forfeiture of Surety	40
15.6	Use of Surety by City.....	41
15.7	Replacement Letter of Credit.....	41
16	INSURANCE.....	41
16.1	Insurance Coverage.....	41
16.2	Comprehensive General Liability	41
16.3	Automobile Liability Insurance	41
16.4	Workers’ Compensation Insurance	42
16.5	Environmental Pollution Control Insurance	42
16.6	Endorsements	42
16.7	Acceptability of Insurers.....	43
16.8	Insurance of Subcontractors.....	43
16.9	Verification of Coverage.....	43
16.10	Loss or Reduction in Insurance.....	43
17	CITY’S REMEDIES; DEFAULT AND TERMINATION	43
17.1	City’s Right to Suspend or Terminate	43
17.2	Notice of Default.....	43
17.3	Termination Without Right to Cure.....	44
17.4	Termination Procedure.....	44
17.5	City Manager Review	45
17.6	City Council Review	45
17.7	Performance During Reviews	45
17.8	Franchisee’s Obligations Upon Termination	45
17.9	City’s Remedies Cumulative	46
18	FRANCHISEE’S REMEDIES; ADMINISTRATIVE HEARING	46
18.1	Administrative Hearing.....	46
18.2	Other Remedies; Claims	46

18.3 Actions for Damages.....46

19 ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS
AND LIMITATIONS46

20 GENERAL PROVISIONS47

20.1 Force Majeure47

20.2 Property Damage47

20.3 Pavement Damage47

20.4 Right of Entry47

20.5 City’s Authorized Agent47

20.6 Amendments48

20.7 Independent Contractor.....48

20.8 Law to Govern; Venue.....48

20.9 Joint Drafting48

20.10 Section Headings48

20.11 Successors and Assigns.....48

20.12 Waiver48

20.13 Notices49

20.14 Severability49

20.15 Exhibits Incorporated.....49

20.16 Attorneys’ Fees and Litigation Costs.....49

20.17 Corporate Resolution49

20.18 Integration49

20.19 Compliance with Law50

NON-EXCLUSIVE FRANCHISE AGREEMENT

This Non-exclusive Franchise Agreement (“Agreement”) is entered into and effective as of September 1, 2024, by and between the CITY OF IRVINE, a California municipal corporation (“City”) and _____ (“Franchisee”), relating to the provision of certain Solid Waste Handling Services within the City which are not subject to City’s Exclusive Franchise Agreement. City and Franchisee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City has determined that the public health, safety and welfare require that an open and competitive system for Collection of Solid Waste exist within City applicable to Premises not subject to the City’s Exclusive Franchise Agreement, and that an exclusive franchise agreement be awarded to qualified solid waste enterprises for such purpose.

C. The City Council previously authorized and granted several non-exclusive franchise agreements with various franchisees (the “Prior Agreement”), and the Prior Agreement will terminate on August 31, 2026.

D. The Parties enter this Agreement with the intent of amending the Prior Agreement to: (i) reflect service standards and legal requirements in the Solid Waste industry which have changed over time and in particular the requirements imposed by SB 1383; and (iii) memorialize that this Agreement shall supersede the Prior Agreement, except with respect to certain continuing obligations as more specifically set forth herein.

E. It is the intent of the Parties that Franchisee, and not City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Franchisee pursuant to this Agreement.

F. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1594, AB 1826, SB 1383 the Resource Conservation and Recovery Act (“RCRA” – 42 U.S.C. § 6901 et. seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”– 42 U.S.C. § 9601 et. seq.). City and Franchisee desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement City is not thereby becoming an “arranger” or a “generator” as those terms are used in CERCLA, and that it is Franchisee, not City, who is “arranging for” the Collection, transport for disposal, composting, and Recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its

Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee, and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement, City and Franchisee further desire to confirm that Franchisee has agreed to indemnify City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal by Franchisee of Hazardous Contaminants that may occur in connection with Franchisee's performance under this Agreement in accordance with the terms and conditions set forth herein.

G. By entering into this Agreement, Franchisee agrees to provide such Services as are necessary to ensure City complies with all Applicable Laws in connection with the Solid Waste Handling Services it provides hereunder, and represents and warrants that it has the experience and qualifications to conduct the services detailed herein.

H. The City Council hereby determines and finds that the public interest, health, safety and wellbeing will be served by entering this Agreement.

COVENANTS

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 **RECITALS**

The Parties acknowledge the above Recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2 **DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code or the Municipal Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement; and, terms defined in this Agreement shall have such meaning as defined in this Agreement for purposes of this Agreement. Otherwise, terms used in this Agreement shall have their ordinary meaning.

2.1 ☐ AB 341. "AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011), relating to mandatory commercial Recycling.

2.2 ☐ AB 939. "AB 939" shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.3□ AB 1594. “AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014), .

2.4□ AB 1826. “AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5□ Animal Waste. “Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.6□ Applicable Laws. “Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 939, SB 1383, and 14 CCR, Division 7, Chapter 12.

2.7□ Approved Facility/ies. “Approved Facility” or “Approved Facilities” shall mean facilities designated in Exhibit D, as it may be amended by agreement of the Parties

2.8□ Bins. “Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of between approximately one and one-half (1½) and eight (8) cubic yards.

2.9□ CalRecycle. “CalRecycle” shall mean the State of California Department of Resources Recycling and Recovery, the department within the State Natural Resources Agency responsible for the administration of the Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 et seq.(“Act”), or any successor department or agency created or designated for such purpose pursuant to the Act.

2.10□ Cart. “Cart” shall mean a plastic Container with a capacity of between approximately thirty-five (35) to ninety-six (96) gallons, having a hinged lid and wheels.

2.11□ City. “City” shall mean the City of Irvine, a municipal corporation, located in Orange County, California.

2.12□ City Council. “City Council” shall mean the City Council of the City of Irvine.

2.13□ City Indemnitees. “City Indemnitees” shall mean the City and its past and present elected and appointed officials, officers, commissions, boards, members, employees, representatives, agents, consultants, and volunteers.

2.14□ City Limits. “City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Irvine, and which are from time to time amended to reflect changes.

2.15□ City Manager. “City Manager” shall mean the City Manager of the City of Irvine or his or her designee.

2.16□ Collect/Collection. “Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17□ Collection Vehicles. “Collection Vehicles” shall have the meaning ascribed in Section 9.1 of this Agreement..

2.18□ Commercial Customer. “Commercial Customer” shall mean a Customer receiving services hereunder in connection with Solid Waste generated at a Commercial Premises.

2.19□ Commercial Premises. “Commercial Premises” shall mean property upon which a business activity is conducted, including but not limited to retail sales, services, manufacturing, assembling, storage, or wholesale operations, but excluding businesses conducted upon Residential Premises that are permitted under applicable zoning regulations and that do not constitute the primary use of the property. Commercial Premises include hotels, motels, assisted living facilities, convalescent centers, nursing homes, churches and private schools.

2.20□ Container. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins and Rolloff Boxes.

2.21□ County Agreement. “County Agreement” shall mean that certain Waste Disposal Agreement, as the same may be amended from time to time, entered into among various Orange County cities, including specifically the City of Irvine, and the County of Orange relating to the use of County landfills for the disposal of Refuse Collected in such cities, and which is on file in the office of the Clerk of the City of Irvine.

2.22□ Customer. “Customer” shall mean any person or entity receiving Solid Waste Handling Services, including Recycling services, from Franchisee within the Franchise Area.

2.23□ Dwelling Unit. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

2.24□ Effective Date. “Effective Date” shall mean September 1, 2024.

2.25□ Environmental Laws. “Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, CERCLA, RCRA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §78000 et seq.; the Hazardous Materials Release Response Plans & Inventory Act, California Health and Safety Code § 25500 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the Toxic Mold Protection Act, California Health & Safety Code § 26100, et seq.; the California

Underground Storage of Hazardous Substances Laws, Chapter 6.7 of Division 20 of the California Health and Safety Code, §25280 et seq.; California Law governing the Above Ground Storage of Petroleum, Chapter 6.67 of Division 20 of the California Health and Safety Code, §25270 et seq.; and California law governing Hazardous Material Release Cleanup, Chapter 6.10 of Division 20 of the California Health and Safety Code, § 25403 et. seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.26□ Exclusive Franchise Agreement. “Exclusive Franchise Agreement” shall mean that certain agreement with Waste Management Collection and Recycling, Inc., a California corporation, dba Waste Management of Orange County (“Waste Management”), or its permitted successor or assignee, effective as of April 1, 2024, as amended from time to time, and which relates to exclusive Solid Waste Handling Services for Residential Premises and Village Commercial Premises in the City.

2.27□ Food Waste. “Food Waste” shall mean a subset of Organic Waste comprised of (i) any type of food (including without limitation fruits, vegetables, meat, poultry, seafood, bones, rice, beans, pasta, bread, dairy products), (ii) food soiled paper (for example, napkins, paper towels, and paper plates that are contaminated with food), and (iii) tea bags, coffee grounds, and coffee filters.

2.28□ Franchisee. “Franchisee” shall mean the entity identified as the “Franchisee” in the preamble to this Agreement, or any entity pursuant to the terms hereof permitted to become the successor or assignee thereof.

2.29□ Franchise Area. “Franchise Area” shall mean all Premises in the City not subject to the Exclusive Franchise Agreement, except that the Franchise Area shall include Premises subject to the Exclusive Franchise Agreement for purposes of Temporary Services.

2.30□ Franchise Fee. “Franchise Fee” shall mean the franchise fee set forth herein and more fully defined in Section 11.1.

2.31□ Gross Receipts. “Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by, or imputed to Franchisee and any affiliates, parent companies, subsidiaries and/or subcontractors of Franchisee, in connection with, arising from, or in any way attributable to the services carried out by or on behalf of Franchisee pursuant to this Agreement. Gross Receipts includes, without limitation, all Customer charges that are received by Franchisee for services pursuant to this Agreement, without subtracting Franchise Fees. Gross Receipts does not include (i) revenue from the sale of Recyclable Material, Organic Waste, and other material that is diverted from disposal, or (ii) monies collected by Franchisee and used to pay tipping fees imposed by the County of Orange for disposal at a County landfill pursuant to the County Agreement.

2.32□ Hazardous Contaminant. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California Health & Safety Code Sections 25260 and 25501(n); any “hazardous substance,” as that term is defined herein or under California Health & Safety Code Sections 25281(h) and 78075(a), and under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined herein and under Title 42,

Section 6903(5) of the United States Code and under California Health & Safety Code Section 25117; any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

2.33 Hazardous Substance. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “Hazardous Materials,” “Hazardous Wastes,” “Toxic Waste,” or “Toxic Substances” or similarly identified as being hazardous to human health or the environment, in or pursuant to (i) CERCLA; (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) RCRA; (iv) the Federal Water Pollution Control Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 78075; (vi) California Health & Safety Code §§ 25260 and 25501(n); (vii) the Clean Air Act, 42 USC §7401 et seq.; and (viii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, any asbestos or asbestos-containing material, polychlorinated biphenyl’s (“PCBs”), any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof, any natural gas and/or synthetic fuel products, and by-products thereof.

2.34 Hazardous Waste. “Hazardous Waste” shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115 and/or §25117, or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to RCRA, all future amendments thereto, and all rules and regulations promulgated thereunder.

2.35 Mixed-Use Development. “Mixed-Use Development” shall mean Premises where Containers are shared by Customers from both Commercial Premises and Multi-Family Dwellings for the Collection of Solid Waste generated on property under common ownership. The term Mixed-Use Development has been defined for purposes of this Agreement, and is specifically intended to have a different definition and meaning than the term “Mixed-use development” as set forth and defined in City’s Municipal Code.

2.36 Multi-Family Dwelling. “Multi-Family Dwelling” shall mean any Residential Premises at which more than one Dwelling Unit exists.

2.37 Municipal Code. “Municipal Code” shall mean City’s Municipal Code of Ordinances, including City’s Zoning Code, and all uncodified ordinances duly adopted by City, as such may be amended from time to time.

2.38□ Non-exclusive Franchise Agreement. “Non-exclusive Franchise Agreement(s)” means that certain non-exclusive franchise granted by the City Council effective as of September 1, 2024 and entered between the City and various persons and entities related to the provision of Solid Waste Handling Services in the Franchise Area (with this Agreement being one of the Non-Exclusive Franchise Agreements).

2.39□ NPDES. “NPDES” shall mean the National Pollutant Discharge Elimination System.

2.40□ Organics Recycling Waiver. “Organics Recycling Waiver” shall mean a waiver granted to a Customer by City pursuant to SB 1383.

2.41□ Premises. “Premises” shall mean any land, building and/or structure, or portion thereof, in the City where Solid Waste is produced, generated or accumulated.

2.42□ Recycle or Recycling. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and/or reconstituting materials that would otherwise be disposed of and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products.

2.43□ Recyclable Material (Recyclables). “Recyclable Material” or “Recyclables” shall mean that Solid Waste discarded within Premises that are subject to this Agreement and which is capable of being Recycled.

2.44□ Refuse. “Refuse” shall mean that Solid Waste which the Applicable Laws do not require be Collected in a Container designated for the Collection of Recyclable Material or Organic Waste.

2.45□ Refuse Cart. “Refuse Cart” shall mean a cart designated for the Collection of Refuse.

2.46□ Residential Premises. “Residential Premises” shall mean all Premises upon which Dwelling Units exist.

2.47□ Rolloff Box. “Rolloff Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

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

2.49□ Solid Waste. “Solid Waste” shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial Solid Waste, bulky items, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include Hazardous Contaminants, Hazardous Substances, Hazardous Waste, low-level radioactive waste, untreated medical waste, or Special Wastes. Solid Waste includes Refuse, discarded Recyclable Materials, and Organic Waste.

2.50□ Solid Waste Handling Services. “Solid Waste Handling Services” shall mean the Collection, and thereafter the transfer, transport, Recycling, processing, and disposal of Solid Waste.

2.51□ Special Wastes. “Special Wastes” shall mean waste materials including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

2.52□ SRRE. “SRRE” shall mean City’s Source Reduction and Recycling Element approved by the State of California pursuant to the requirements of AB 939.

2.53□ Temporary Service. “Temporary Service” shall mean the Collection, transfer, transport, Recycling, processing, and disposal of Solid Waste provided by a solid waste enterprise on an as-needed and temporary basis to any Premises within the City (including Residential Premises and Village Commercial Premises) in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes..

2.54□ Term. “Term” shall have the meaning ascribed in Section 5 of this Agreement.

2.55□ Transformation. “Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.56□ Village Commercial Premises. “Village Commercial Premises” shall mean that subset of Commercial Premises which have been designated by City as falling within the scope of the Exclusive Franchise Agreement, and which are not within the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The specific Commercial Premises which are designated as Village Commercial Premises are (i) those Commercial Premises which are located in areas designated as “Exclusive Village Commercial” on the Village Commercial Premises Map, attached hereto as Exhibit A; (ii) Mixed-Use Developments, whether currently in existence or developed in the future, which are deemed to be Village Commercial Premises, regardless of their location and whether or not said location is designated as “Exclusive Village Commercial” on the Village Commercial Premises Map; and (iii) any Commercial Premises within Planning Area 51 that is designated as a Village Commercial Premises as more fully set forth herein. Notwithstanding anything herein to the contrary, Village Commercial Premises shall not

include hotels, motels, assisted living facilities, convalescent centers or nursing homes, regardless of their location.

2.57 ☐ Village Commercial Premises Map. “Village Commercial Premises Map” shall mean the map attached hereto as Exhibit A, titled “Commercial Solid Waste Collection Service Areas.” The purpose of the Village Commercial Premises Map is to designate which Commercial Premises are designated as “Village Commercial Premises” and thereby within the scope of the Exclusive Franchise Agreement, and conversely outside of the scope of the Franchise Area and the non-exclusive franchise granted by this Agreement. The Village Commercial Premises Map is not intended to identify the location of Residential Premises, including Premises where Mixed-Use Developments exist; and, accordingly, Mixed-Use Developments (which are deemed to be Village Commercial Premises) may exist in areas designated as “Non-exclusive Commercial” on the Village Commercial Premises Map and are subject to the Exclusive Franchise Agreement.

2.58 ☐ Terms Defined in 14 CCR Section 18982. The following terms used herein are defined in 14 CCR Section 18982, and shall have the meaning defined therein:

- 2.58.1 ☐ Commercial Edible Food Generator
- 2.58.2 ☐ Edible Food
- 2.58.3 ☐ Food Recovery
- 2.58.4 ☐ Food Recovery Organization
- 2.58.5 ☐ Food Recover Service
- 2.58.6 ☐ Large Event
- 2.58.7 ☐ Large Venue
- 2.58.8 ☐ Organic Waste
- 2.58.9 ☐ Tier One Commercial Edible Food Generator
- 2.58.10 ☐ Tier Two Commercial Edible Food Generator

SECTION 3

NON-EXCLUSIVE FRANCHISE

3.1 ☐ Grant and Scope of Franchise.

City hereby grants to Franchisee, and Franchisee shall have throughout the duration of this Agreement, the non-exclusive franchise, right, license and privilege to provide Solid Waste Handling Services as set forth herein within the Franchise Area. Generally speaking, the rights granted herein pertain to: (1) Solid Waste Handling Services to Commercial Premises, excepting Village Commercial Premises, occurring on a regular schedule (such as weekly service); and (2) Temporary Services to any Premises in the City (including Residential and Village Commercial

Premises). In the event of any uncertainty, ambiguity, and/or dispute as to whether a particular Premises is subject to the Exclusive Franchise Agreement, and hence not within the Franchise Area of this Agreement, the determination of the applicable scope of this Agreement shall be made by the City Manager, and such determination shall be final. The Parties agree that any such determination is occurring pursuant to Public Resources Code Section 49523, is agreed to by the Parties upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement.

3.2□ Amendments to Scope of Franchise; Planning Area 51

3.2.1□ The Parties acknowledge that as of the Effective Date, the Village Commercial Premises Map includes that certain land designated in City's Zoning Code as "Planning Area 51". Furthermore, that the Zoning Code's text and maps (generally found in Sections 9-51-3 and 9-51-6) depict and describe Planning Area 51 divided into individual "Districts" labeled Districts 1 through 9, with the balance of Planning Area 51 designated as The Great Park. The City has not yet finalized its plans for Planning Area 51, and a final determination of those Commercial Premises which should be designated as Village Commercial has therefore not yet occurred. Once the final planning for Planning Area 51 is complete, the Village Commercial Premises Map will be amended to depict those Commercial Premises within Planning Area 51 that are designated as Village Commercial Premises and thus not part of the Franchise Area and not within the scope of the non-exclusive franchise rights conveyed by this Agreement.

3.2.2□ As of the Effective Date (but subject to change in the future as final plans for Planning Area 51 develop), it is anticipated that land currently described and depicted in City's Zoning Code as Districts 1, 4, 5, 7 and 8 within Planning Area 51 will be developed primarily for residential purposes, and accordingly City anticipates such Districts within Planning Area 51 will be designated as Village Commercial Premises. Moreover, City anticipates that all remaining land in Planning Area 51 (described and depicted in its Zoning Code as Districts 2, 3, 6 and 9, and The Great Park) will not be developed for residential purposes, and accordingly City does not anticipate designating such land within Planning Area 51 as Village Commercial Premises.

3.2.3□ As of the Effective Date, the Village Commercial designations noted in Section 3.2.2. above, which are anticipated to ultimately be confirmed on a revised Village Commercial Map, shall apply (excepting for those Premises already designated within Planning Area 51 on Exhibit A as "Nonexclusive Commercial"); provided, however, the City Manager shall have the right in his/her reasonable discretion to determine whether to change such designations. In determining whether to change a Village Commercial designation the City Manager will consider the following: (i) City's primary goal of minimizing Collection Vehicle traffic near and around Residential Premises; and (ii) the Village Commercial Premises designation is intended to apply to Premises located in close proximity to Residential Premises, which are established to provide for the unified commercial needs of neighborhood residents.

3.2.4□ Once any Premises that is not located in Planning Area 51 is designated as a Village Commercial Premises, it shall remain so designated for the remainder of the Term. Franchisee agrees that City may amend the Village Commercial Premises designation of properties in Planning Area 51 while City's planning is finalized, and that such changes will be reflected on

amended maps to be maintained by the City Manager. Moreover, the Parties agree that any such changes so effectuated are occurring pursuant to Public Resources Code Section 49523, are agreed to by the Parties upon mutually satisfactory terms, and are part of the consideration for entering into this Agreement. Franchisee expressly acknowledges that any change in scope of the franchise granted hereunder that may occur during the Term as a result of a change to the Village Commercial Premises designation of property located in Planning Area 51 as described in this Section 3.2 is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524.

3.3 ☐ Franchise Rights to Include Right to Use City Rights of Way.

The franchise granted by this Agreement includes the right for Franchisee to conduct business on City's rights-of-way as more fully described herein in order to carry out its obligations as set forth in this Agreement, including by: allowing the placement and/or storage of its Containers in rights-of-way; allowing Collection Vehicles to drive at a pace, and repeatedly stop in, rights-of-way in a manner which disrupts traffic to the degree reasonably necessary to carry out its obligations hereunder, and which actions would otherwise be prohibited and a violation of laws applicable to the general public; and, Collecting, delivering and otherwise servicing Containers within rights of way and disrupting traffic as may be reasonably necessary to do so. The franchise hereby granted includes the right to encroach on City's rights-of-way for the forgoing purposes, without the need for an encroachment permit being issued to Franchisee or its Customers (as would be required of the general public to use City's rights-of-way in a similar manner) in connection with the services Franchisee provides hereunder; provided however, Franchisee's rights to use the City's rights-of-way may be limited by the City Manager as necessary for the protection of health, safety and public welfare. Notwithstanding the franchise rights granted herein to impede traffic as may be necessary to perform services hereunder, Franchisee shall take reasonable steps to schedule Collection of Containers, and otherwise perform its obligations hereunder, in a manner that endeavors to minimize the impact of its business activities on the flow of traffic.

3.4 ☐ Limitations on Scope of Franchise.

3.4.1 ☐ *Non-exclusive.* This Agreement shall be non-exclusive, and no provision hereof shall be deemed to require City to grant similar franchises to one or to any particular number of franchisees, nor to restrict or prohibit City from doing so. Franchisee understands and acknowledges City may enter similar non-exclusive franchise agreements pursuant to the same, or substantially similar terms, with any qualified Solid Waste enterprise.

3.4.2 ☐ *Exclusions.* Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive contract, right, franchise, license, and privilege granted herein excludes:

(a) ☐ Solid Waste Handling Services at Village Commercial Premises or Residential Premises, other than Temporary Service at such Premises.

(b) ☐ except as provided otherwise herein, the Collection, transportation, or disposal of Hazardous Contaminants; Hazardous Substances; Hazardous Waste; items

commonly known in the waste industry as “universal waste” and/or “e-waste”; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; Special Waste; or other materials which do not constitute Solid Waste.

(c) ☐ Those Solid Waste Handling Services, if any, which are governed by or subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.5 ☐ Rights in Annexed Territories.

It is the intention of the Parties that, subject to all of the limitations set forth in Section 3.4 above, the non-exclusive franchise granted herein shall apply to any property incorporated into the City Limits during the Term hereof; provided, however, the exercise of the rights granted herein within annexed territories shall be limited by and subject to any legal right held by any Solid Waste enterprise to continue to operate (whether pursuant to a pre-existing Solid Waste permit, license, agreement, franchise, or otherwise), so long as any such legal right shall continue to exist.

3.6 ☐ Public Resources Code Section 49523 Acknowledgment.

If Franchisee has a pre-existing permit, license, agreement, franchise or other rights to provide services in the City, including because of being a Franchisee under the Prior Agreement, then Franchisee expressly acknowledges that any change or modification to the scope of such rights that may be effectuated by this Agreement is occurring pursuant to Public Resources Code Section 49523, is included herein upon mutually satisfactory terms, and is part of the consideration for entering into this Agreement. Moreover, Franchisee expressly acknowledges that any change in scope of such prior rights is occurring pursuant to Public Resources Code Section 49523, and is not a waiver of rights set forth in Public Resources Code Section 49520 which would be subject to the provisions of Public Resources Code Section 49524. Franchisee acknowledges that City has advised it that if it has rights pursuant to Public Resources Code Section 49520 which it does not wish to modify by entering this Agreement, it may choose to continue to operate in City pursuant to such rights rather than enter into this Agreement.

3.7 ☐ Notice Pursuant to Public Resources Code Section 49520.

The rights granted pursuant to the terms hereof shall expire upon the end of the Term of this Agreement as set forth in Section 5 below. Franchisee shall have no right to continue to provide services in City pursuant to Public Resources Code Section 49520, or otherwise, following the end of the Term hereof unless a subsequent franchise, contract, or permit is granted to Franchisee by City, or unless this Agreement is amended to provide such rights. This provision is intended to, and shall serve as the notice contemplated by Section 49520 with respect to the franchise rights granted herein.

SECTION 4 **ACCEPTANCE; WAIVER**

Franchisee agrees to be bound by and comply with all the requirements of this Agreement. Franchisee waives Franchisee’s right to challenge the terms of this Agreement under federal, state,

or local law, or administrative regulation. Additionally, by and upon the execution of this Agreement, Franchisee agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder (excepting, however, the right to compensation accrued and unpaid for services provided prior to the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Franchisee from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Franchisee's Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 5

TERM

The term of this Agreement shall commence on September 1, 2024 and end at midnight on August 31, 2041, unless this Agreement is terminated at an earlier date pursuant to Section 17 hereof.

SECTION 6

CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement:

6.1 ☐ Accuracy of Representation. All representations and warranties made by Franchisee and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 ☐ Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 ☐ Furnishing of Insurance and Bond or Letter of Credit. Franchisee shall have furnished evidence of the insurance and Surety required by Sections 15 and 16 hereof.

6.4 ☐ Effectiveness of City Council Action. The City Council Ordinance approving this Agreement shall have become effective pursuant to California law.

SECTION 7

GENERAL REQUIREMENTS FOR SOLID WASTE HANDLING SERVICES

PROVIDED BY FRANCHISEE

7.1 Equipment

Franchisee shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all Solid Waste Handling Services required by the terms of this Agreement.

7.2 Compliance with Applicable Laws; Performance Standards

Franchisee shall comply with all Applicable Laws as they may be amended from time to time. Franchisee shall obtain and maintain, at Franchisee's sole cost and expense, all permits and licenses applicable to Franchisee's operations under this Agreement, including specifically, without limitation, a City of Irvine Business License. Franchisee shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and generally accepted standards in the industry.

7.3 Noise and Disruption

Franchisee shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Franchisee shall use its best efforts to coordinate its Collection schedules so as not to interfere with street sweeping.

7.4 Collection Times

Unless approved, in writing, by the City Manager, (i) Franchisee shall not commence Collection of Solid Waste until 7:00 a.m., nor shall such activities occur after 8:00 p.m, and (ii) Franchisee may not Collect Solid Waste on Sundays unless specifically approved by the City Manager.

7.5 Requirements For Handling of Source Separated Solid Waste

Franchisee shall ensure all Solid Waste Source Separated in Containers by material type remains so separated after Collection. Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Recyclable Material). Similarly, Franchisee shall utilize a Collection Vehicle dedicated for the purpose of Collecting Recyclable Materials, such that Recyclable Material which has been separated prior to Collection, once Collected, is not commingled with other Solid Waste (including Organic Waste).

7.6 Approved Facilities

Franchisee shall provide a list of all facilities to which it intends to deliver Solid Waste for disposal or processing which shall be approved by the City Manager prior to Franchisee

commencing services pursuant to this Agreement (the “Approved Facilities”). The City Manager shall approve any facility proposed so long as it is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws; and, once approved the list of Approved Facilities shall be attached hereto and incorporated herein as Exhibit D. All material Collected by Franchisee pursuant to this Agreement shall be delivered to one of the Approved Facilities identified in Exhibit D and in no case may Solid Waste be delivered to a facility that is not properly permitted to handle the type of materials so delivered, except as may be necessitated by a Force Majeure event, or temporary closure not exceeding five (5) business days. Franchisee may update Exhibit D, and the Approved Facilities noted therein, at any time subject to the City Manager’s approval, which approval will not be withheld so long as any facility proposed to be added is properly permitted to process or dispose of the type of materials proposed to be delivered to it in a manner that complies with the Applicable Laws.

7.7 ☐ Collection Routes

Franchisee shall establish routes for all Customers serviced pursuant to the terms hereof in City, and provide City with maps, or other means satisfactory to City demonstrating such routes. The routes shall be sufficiently identified to reasonably enable the City to assess compliance with its obligations pursuant to 14 CCR §§ 18984.5 and 18984.6.

7.8 ☐ Authorized Truck Routes; Ingres and Egress.

Franchisee hereby acknowledges and agrees that the City Manager shall have the authority to set truck routes, including but not limited to entry and exit points to and from Commercial Premises, and after meeting and conferring with Franchisee to discuss concerns with existing or proposed routing, to direct Franchisee’s Collection Vehicles to only utilize such routes, when necessary, in the City Manager’s reasonable discretion, to reduce negative impacts on residential areas and City infrastructure.

7.9 ☐ No Commingling Without Consent.

Franchisee shall not during its Collection process commingle any type of Solid Waste (including Recyclable Material and Organic Waste) Collected hereunder in a Collection Vehicle with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement. Notwithstanding the foregoing, City, in its sole and absolute discretion, may allow Franchisee to commingle Solid Waste it Collects hereunder with that Collected from persons or places outside the Franchise Area, if:

7.9.1 ☐ Franchisee proposes a means acceptable to City by which to accurately identify and report the Solid Waste Collected from within and outside the Franchise Area; and

7.9.2 ☐ Franchisee obtains written consent from the City Manager to implement commingling pursuant to any such proposal; and

7.9.3 ☐ Franchisee’s proposal as approved by the City Manager is successfully implemented such that timely and accurate information regarding the Solid Waste Collected from within the Franchise Area, and the delivery for diversion and/or diversion of such Solid Waste so as to enable the City to remain in compliance with related provisions of the Applicable Laws; and

7.9.4□ Franchisee's proposal meets all obligations that may exist relating to the County Agreement.

The City Manager may in the exercise of his reasonable discretion withdraw any consent given to Franchisee by which commingling is authorized, and shall give reasonable written notice to Franchisee of such decision, which shall be deemed to be 30 days unless otherwise dictated by specific circumstances.

7.10□ Collection and Replacement of Containers

Franchisee shall Collect Containers from the location upon the property of each Customer designated for their storage, and replace such Containers to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Franchisee.

7.11□ Franchisee's Containers

7.11.1□ Franchisee's Containers shall meet the minimum standards set forth on the attached Exhibit B, and shall comply with the Applicable Laws.

7.11.2□ Franchisee shall be responsible to maintain and replace, as necessary, all of its Containers, and all Containers shall be maintained by Franchisee in good repair, with any question as to the meaning of this standard being resolved by the City Manager based upon the exercise of his/her reasonable discretion.

7.11.3□ Franchisee shall ensure it maintains an accurate list that contains the total number and type of its Containers at each service address, as well as the frequency of Collection for each such Container. Franchisee shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each monthly, quarterly and annual report submitted pursuant to Section 10.

7.11.4□ All Containers which are used primarily for the Collection of Solid Waste containing liquids shall be maintained by Franchisee in a watertight condition; and shall at all times comply with the provisions of any applicable NPDES permit.

7.11.5□ Franchisee shall replace any damaged Containers, and shall remove any graffiti that appears on its Containers, within one (1) business day after becoming aware of the damage or graffiti.

7.11.6□ All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion.

7.11.7□ Franchisee's name and local telephone number shall be placed on all Bins and Rolloff Boxes, in letters not less than three (3) inches high, so as to be visible in use. Franchisee's Carts shall contain, at a minimum, Franchisee's name and a distinct logo and identification number.

SECTION 8

MINIMUM REQUIREMENTS FOR SOLID WASTE HANDLING PROGRAMS

8.1 Commercial Premises Refuse Collection

Franchisee shall provide all Commercial Customers with at least one (1) Bin and/or Rolloff Box for Collection of Refuse that meet the minimum standards set forth in Exhibit B. As an alternative, and subject to the approval of the City Manager, Franchisee may offer Collection in Refuse Carts to Commercial Customers that do not have space for, or do not generate enough waste to require the use of, Bins for Collection. Franchisee shall Collect all Refuse placed in such Containers for Collection not less than once per week. Franchisee shall provide additional Containers for Refuse Collection to Commercial Customers, and provide additional Collections, upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the City Manager. Containers shall be Collected by Franchisee from the location upon each Commercial Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Commercial Customer and Franchisee.

8.2 Commercial Premises Recycling Program

Franchisee shall provide a Recycling program to all Commercial Customers (the "Commercial Premises Recycling Program") that at a minimum meets the standards required under the Applicable Laws, including specifically AB 341 and SB 1383, and such program shall be consistent with Ordinance No. 21-19 adopted by the City to implement the Applicable Laws (including such amendments, if any, to it which may be required by CalRecycle). Franchisee shall deliver to each applicable Customer at least one Container for the Collection of Recyclable Materials. Franchisee shall work with Customers to evaluate the actual number of such Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws (such as AB 341 and SB 1383), taking into account each Customers' actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall assist the City in identifying Customers subject to this provision that are not in compliance with their obligations under the Applicable Laws. Franchisee shall produce, and keep current, information specifically outlining its Commercial Premises Recycling Program, and shall annually publish and distribute a brochure describing this service to all of its existing Customers in City.

8.3 Commercial Premises Organic Waste Recycling Program

Franchisee shall provide a program for the Collection, processing, and diversion from disposal of Organic Waste for all Commercial Customers consistent with the Applicable Laws (the "Commercial Organic Waste Recycling Program"). In connection with this obligation, Franchisee shall deliver at least one Container for the Collection of Organic Waste to each applicable Customer excepting such Customers for whom City issues an Organics Recycling Waiver. The Commercial Organic Waste Recycling Program may be designed to address the specific needs and waste stream of each Customer provided that all Customers shall receive Organic Waste Recycling service in accordance with Applicable Law. Franchisee shall work with Customers to evaluate the

actual service needed, as well as the number of Containers needed, and frequency of their Collection, with a goal of meeting the requirements of the Applicable Laws, including specifically SB 1383, taking into account each Customer's actual needs, and public health and safety needs. The City Manager shall resolve any dispute that may exist between Contactor and any Customer as to the number of Containers or frequency of Collection needed to comply with this provision. Franchisee shall be responsible for ensuring that the Commercial Organic Waste Recycling Program it provides meets the requirements of all Applicable Laws, including SB 1383. Franchisee shall make available information related to its Commercial Organic Waste Recycling Program and shall promote said program through its website, mailers, brochures, billing inserts, email content, social media, and/or online announcements, all as more fully set forth herein. Franchisee shall notify City of instances where a Commercial Customer refuses to implement the Commercial Organic Waste Recycling Program. City agrees in such instances to provide reasonable assistance to Franchisee, which may include adding its name to materials prepared for distribution to Customers regarding the requirements of the Applicable Laws, enforcement of its related ordinances as it may deem necessary (subject to its prosecutorial discretion), and participation by City Personnel in meetings with Commercial Customers who repeatedly refuse to implement the Commercial Organic Waste Recycling Program.

8.3.1□ Franchisee may, as part of its Commercial Organic Waste Recycling Program, allow Customers to place Organic Waste in compostable plastic bags, and place such bags for Collection in Containers designated for the Collection of Organic Waste. Should this occur, Franchisee's Commercial Organic Waste Recycling Program shall comply with all provisions of the Applicable Laws related to the use of compostable plastic bags or compostable plastic, including without limitation those set forth in 14 CCR §18984.1 and 18984.4, and any associated notification and reporting requirements.

8.3.2□ On behalf of City, Franchisee shall regularly identify opportunities for, barriers to, and incentives for Organic Waste recycling, and shall engage with its Customers in education and outreach related to Organic Waste recycling in a manner that ensures City is in compliance with its obligations to conduct outreach and education as set forth in the Applicable Laws, including SB 1383, in connection with the Customers serviced by Franchisee. The method(s) by which Franchisee contacts Customers for these purposes may be by any reasonable means Franchisee desires (which may include direct mail, email, telephone calls, site visits and/or such other methods as Franchisee reasonably deems appropriate), provided that such methods result in compliance with all Applicable Laws in connection with the Customers serviced by Franchisee. Franchisee shall include a summary of its activities pursuant to this provision in its monthly, quarterly and annual reports to City.

8.3.3□ Franchisee shall identify all of its Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators. Franchisee shall provide a summary of each in its monthly, quarterly and annual reports to City. Once identified, Franchisee shall engage in education and outreach efforts with such Customers, including specifically by providing access to training materials for their employees that comply with the Applicable Laws as well as Franchisee's Implementation, Outreach and Education Plan, attached hereto as Exhibit E. To the extent known to Franchisee, Franchisee shall advise Customers that are Large Venues, Large Events and Tier 1 and Tier 2 Commercial Edible Food Generators of any

obligations under the Applicable Laws with which they are not in compliance regarding Recycling and Organic Waste Collection services.

8.3.4□ If requested by City, Franchisee shall conduct visual inspections of Commercial Customer's Premises to evaluate their compliance with Organic Waste Collection obligations and service level needs. Franchisee shall annually conduct Customer surveys and onsite inspections on behalf of City in a manner that complies with the Applicable Laws at Premises that do not participate in Franchisee's Commercial Organic Waste Recycling Program and/or otherwise Recycle or divert Organic Waste. Franchisee shall provide copies to City of summaries of visual inspections and surveys performed, if any, each month and submit copies of all such materials as part of its monthly, quarterly and annual reports to the City in accordance with Section 10. In the event a Customer refuses to participate in Franchisee's Commercial Organic Waste Recycling Program, and does not report to Franchisee that it achieves compliance with its obligations under the Applicable Laws through other methods, Franchisee shall provide the City with Customer's name, address, contact information and such other information available to Franchisee as may be requested by City or CalRecycle, in a format reasonably approved by City.

8.4□ Implementation, Outreach and Education Plan. Within 30 days of the Effective Date, Franchisee shall prepare an "Implementation, Outreach and Education Plan" which shall be submitted to the City Manager for approval and thereafter attached hereto and incorporated herein as Exhibit E. Franchisee shall provide ongoing education and outreach to Customers that at a minimum complies with the Implementation, Outreach and Education Plan. The purpose of Franchisee's Implementation, Outreach and Education Plan is to enable it to implement the services set forth in this Agreement, including specifically those related to SB 1383, and is intended to provide information to Customers related to the proper materials to place in each Container with sufficient specificity to enable Customers to understand Franchisee's various diversion programs, and their obligations under the Applicable Laws, including Ordinance No. 21-19 adopted by City. The Implementation, Outreach and Education Plan shall set forth Franchisee's plan to comply with the education and outreach requirements of the Applicable Laws, which shall include specific proposed tasks and indicate either dates for completion or each, or that a task is ongoing. The Implementation, Outreach and Education Plan shall include at least the following outreach to each of its Customers as part of its Commercial Organic Waste Recycling Program:

8.4.1□ *Initial Direct Mailing Outreach to be performed by Franchisee.* Franchisee shall prepare a multi-lingual letter (in languages reasonably requested by City [which shall at a minimum include English, Spanish and Mandarin]) regarding the requirements of the Applicable Laws, including SB 1383, for City approval. Upon receipt of City approval, the letter shall be delivered by Franchisee to all of its Customers, and shall be provided to any new Customers who subscribe for service with Franchisee, informing such Customers of the availability of the Commercial Organic Waste Recycling Program and the requirements for compliance with AB 1826 and SB 1383. The letter shall note that subscription to Franchisee's Commercial Organic Waste Recycling Program is mandatory under State law for Customers that do not receive an Organic Recycling Waiver from City or otherwise comply with their obligations as generators of Organic Waste as set forth in the Applicable Laws. This letter shall be distributed to Customers in a manner that complies with the Implementation, Outreach and Education Plan set forth in Exhibit E.

8.4.2□ *Initial Direct Mailing of Out of Compliance Outreach to be performed by Franchisee.* Franchisee shall prepare a letter for City approval targeted at its Customers who are not in compliance with their obligations related to Organic Waste under the Applicable Laws. The letter shall be delivered to all applicable Customers within the timeframes set forth in the Implementation, Outreach and Education Plan, attached hereto as Exhibit E, or as otherwise agreed to by the City Manager and Franchisee, and in any case not later than 120 days following the Effective Date. The letter shall explain the requirements of the Applicable Laws, detail the Customer's specific reasons for non-compliance, and explain the annual reporting requirements to CalRecycle. Franchisee shall concurrently provide City with a list of all Customers it believes are not in compliance with the regulatory requirements applicable to them associated with their generation of Organic Waste under the Applicable Laws, (including but not limited to a contact person, service and billing addresses, phone number, email, account notes and any other information reasonably necessary) as well as all available information relating to any refusal by the Customer to participate in the Commercial Organic Waste Recycling Program, in order that such information may be utilized for enforcement purposes and included in reports to CalRecycle.

8.5□ Container Contamination Monitoring.

Franchisee shall provide a Container contamination monitoring program in connection with all Customers that complies with all Applicable Laws, and is approved by the City Manager in his/her reasonable discretion, which at a minimum meets the following requirements:

8.5.1□ Franchisee shall provide on-going monitoring of the contents of Containers, using a method that is approved by City and complies with all Applicable Laws including specifically, without limitation 14 CCR § 18984.5, and may accomplish its obligations hereunder by physical inspection of the contents of Containers by Collection personnel at the time of Collection, or use of cameras which view, record and save images of the contents of Containers.

8.5.2□ Franchisee shall take such steps as are necessary to comply with its on-going Container contamination monitoring obligations hereunder.

8.5.3□ In the event Franchisee encounters a contaminated Container, meaning thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, Franchisee shall document the contaminated Container in a manner that complies with the Applicable Laws and is reasonably satisfactory to City, which shall at a minimum demonstrate: (i) thirteen and one-half percent (13.5%) or more of the volume of the contents of the Container is comprised of materials other than that for which the Container is designated, and (ii) the identity of the Customer to whom the Container was provided by Franchisee. Franchisee shall record such event in a computer logging/data-base system and include the date, time, Customer's address, type of Container (i.e., whether designated for general Solid Waste, Organic Waste, or Recyclable Materials) as well as video or photographic evidence of the contamination connecting it to the Customer/owner of the Container, and shall retain the video/photographic evidence of the incident to enable reasonable review, including review in connection with challenges by Customers to Franchisee's determination a Container was contaminated. Franchisee shall notify the Customer of the contamination incident as soon as reasonably feasible, in a manner consistent with the provisions

of this Section, and provide the information required by this Section to the Customer upon request. In addition, Franchisee shall provide the Customer with education materials related to the appropriate items to be placed in each Container. Franchisee shall maintain the forgoing records and provide them to the City as part of its monthly reporting, or more frequently if necessary to comply with City's enforcement obligations set forth in the Applicable Laws.

8.5.4□ Upon discovering a contaminated Container, Franchisee shall provide notice by leaving a tag on the Container, or delivering the notice by mail, electronic mail, text or other electronic means reasonably calculated to ensure the Customer actually receives the notice.

8.5.5□ Franchisee shall provide information to City regarding Container contamination in the reports it submits to City, with sufficient specificity to enable City to determine if enforcement action against the Customer is warranted and to meet the reporting requirements of SB 1383. In addition, Franchisee shall maintain the above noted records related to contamination and provide them to City, and otherwise assist City with such enforcement efforts as City may deem appropriate.

8.5.6□ Franchisee shall perform route reviews or waste evaluations of each route in City on an ongoing basis in a manner that meets the requirements of 14 CCR § 18984.5, and is approved by the City Manager in his/her reasonable discretion. Once such action is completed, Franchisee shall provide any notification to Customers as may be required by the Applicable Laws. Franchisee shall keep records of the reviews and/or evaluations conducted pursuant to this provision, including specifically the records required by 14 CCR § 18984.6, and provide such records to City upon request. In addition, Franchisee shall include a summary of such information in a form acceptable to City, in its monthly, quarterly and annual reports to City.

8.6□ Precautions Regarding the Collection of Hazardous Materials.

8.6.1□ *Contractual Prohibition Requirement.* Franchisee shall include as a condition to its contractual agreement with its Customers a provision prohibiting disposal of Hazardous Waste in any of Franchisee's Collection Vehicles, Containers, or other equipment.

8.6.2□ *Load Check Program.* Franchisee shall implement a load check program that includes, at a minimum, a visual check of all Containers to be emptied to protect against inclusion of Hazardous Waste. Franchisee shall prepare a written record of all Hazardous Waste discovered during load checks. The records shall comply with all City, county, state and federal Hazardous Waste Regulations, shall be maintained for a minimum of five (5) years following the expiration of this Agreement, and shall be made available to the City Manager upon request. Further, prior to destroying or discarding any of such records, Franchisee shall notify City, and upon City's election, Franchisee shall deliver such records to City. Franchisee shall handle and dispose of any Hazardous Materials it Collects in accordance with Applicable Laws.

8.7□ Edible Food Recovery.

Franchisee shall assist City and Commercial Customers in meeting their obligations set forth in 14 CCR Section 18985.2, by at a minimum providing the following services:

8.7.1□ As required by 14 CCR Section 18991.3, Franchisee shall identify all of its Commercial Customers that meet the definition of Tier One or Tier Two Commercial Edible Food Generators. Franchisee shall create, and keep current, a list of such Commercial Customers which list shall include: Customer name; service address; contact information; Tier One or Tier Two classification; type of business (as it relates to the Tier One or Tier Two Commercial Edible Food Generator definition); and such other information as may be required by City to enable it to contact the Customer. Franchisee shall provide a summary of this information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.7.2□ Franchisee shall cooperate with and assist City and/or its consultants in conducting annual inspections of Commercial Customers who are Tier One or Tier Two Commercial Edible Food Generators to assess their compliance with the requirements of 14 CCR Section 18991.3.

8.7.3□ At least annually Franchisee shall provide its Customers who are Tier One and Tier Two Commercial Edible Food Generators with the following information:

8.7.3.1□ Information about the Franchisee's and/or City's Edible Food Recovery program;

8.7.3.2□ Information about Food Recovery Organizations and Food Recovery Services operating within the City, including information regarding how to contact such Food Recovery Organizations and Food Recovery Services; and,

8.7.3.3□ Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

8.7.4□ Franchisee may provide the information required by this Section to Commercial Customers by including it with regularly scheduled notices, education and outreach materials, billing inserts, or other information disseminated to Commercial Customers.

8.7.5□ Franchisee shall assist City, as well as its Customers who are operators of Large Venue's and Large Events with reporting and other assistance necessary to meet their obligations under the Applicable Laws to the extent arising out of Franchisee's Collection of Organic Waste pursuant to this Agreement.

8.7.6□ Franchisee shall keep records of its efforts in connection with this Section, as well as records that provide its best estimate of the total tonnage of Edible Food recovered by its Customers within City, to the extent Franchisee has obtained such information through performance of its Organic Waste Collection Program pursuant to this Agreement, and shall provide summaries of such information in a form acceptable to City as part of its monthly, quarterly, and annual reports to City.

8.8□ Assistance with Organic Recycling Waivers

8.8.1□ Franchisee shall, upon request, assist its Customers in assessing if they qualify for an Organics Recycling Waiver, and provide such assistance as may be necessary for the Customer and City to evaluate any application submitted for such a waiver. Such assistance

shall include a review of the Customer's Organic Recycling Waiver application, and providing City with any information or data regarding the Customer's Premises, service levels or other factors which may be necessary to enable City to evaluate an Organic Recycling Waiver request.

8.8.2□ City shall provide make available to Franchisee all Organics Recycling Waivers it grants in the Franchise Area. If requested by City or a Customer, Franchisee shall conduct such reasonable investigation and inquiry as may be necessary to enable City to determine if the criteria by which City granted an Organic Recycling Waiver to one of Franchisee's Customers continues to exist.

8.8.3□ Franchisee shall maintain a record of each Organics Recycling Waiver issued by the City for its Customers, as well as any ongoing activity it undertakes in connection with Section 8.8.2 to provide data related to ongoing eligibility. A summary of such information shall be provided by Franchisee, in a form acceptable to City along with Franchisee's monthly, quarterly and annual reports to City.

8.9□ Other Collection Programs As May Be Required by Law.

In the event CalRecycle, or any federal or state law or regulation, imposes upon City or Franchisee a requirement for the implementation of any source Separated program for the Collection of any type of discarded material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement but applicable to Franchisee's Customers, Franchisee shall design and implement a program to comply with such requirement and accordingly operate hereunder in compliance with the Applicable Laws. Any program implemented pursuant to this Section shall be subject to the City Manager's reasonable approval.

8.10□ Guaranteed Minimum Franchisee Recycling Rate.

In accordance with AB 939, Franchisee shall conduct its operations hereunder such that a minimum of fifty percent (50%) of all Solid Waste Collected from Franchisee's Customers (taking into account diversion achieved by efforts other than its services) is diverted from disposal at Landfills for each calendar year beginning January 1, 2025 ("Recycling Diversion Requirement"). For the purposes of this Section, diversion includes only Recycling methods, Transformation (and/or other forms of converting Solid Waste into energy), and other processes which are accepted by the State toward meeting City's diversion goal under the Applicable Laws. Franchisee shall not be entitled to a reduction in the Recycling Diversion Requirement if or when:

- Transformation or other facilities are no longer available for any reason; or
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility.

Notwithstanding anything in this Agreement to the contrary, Franchisee's Recycling Diversion Requirement under this Agreement shall be subject to all Applicable Laws, such that if diversion requirements in the State of California increase, Franchisee's Recycling Diversion Requirement shall increase in order to ensure compliance with all Applicable Laws.

To comply with this Section, Franchisee is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. The failure or refusal of a Customer to receive service or comply with recommendations of Franchisee related to meeting the Recycling Diversion Requirement shall not be considered a breach by Franchisee of this Section. In addition, Franchisee shall not be in breach of this Agreement for failure to meet the Recycling Diversion Requirement if such failure arises from or is related to service waivers granted to Customers by City. Failure by Franchisee to meet, and fully support, the Recycling Diversion Requirement as described in this Section may result in termination of this Agreement pursuant to Section 17.

8.10.1 ☐ *Implementation of Additional Diversion Services.* In the event City does not meet the current diversion goal of fifty percent (50%) imposed by AB 939, and City finds that Franchisee is not meeting its Recycling Diversion Requirement as a result of its failure to perform its obligations under this Section 8.10, City may direct Franchisee to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services.

8.10.2 ☐ *Compliance and Penalties.* City may provide Franchisee with written notice of violations of Franchisee's obligations under this Section 8.10. If Franchisee fails to cure any noticed violation within a reasonable period of time determined in City's sole discretion, the end date of which is stated in the written notice, the City may charge Franchisee up to Two Hundred Fifty Dollars (\$250) per day for each violation identified in the written notice. Upon request, City may in its sole discretion, but is not required to, extend Franchisee's period to cure. The penalties in this Section are in addition to any remedies that may be available to City.

SECTION 9

FRANCHISEE'S COLLECTION VEHICLES

9.1 ☐ General

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

9.2 ☐ Air Quality/Fuel Requirements

Franchisee's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Franchisee's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Franchisee shall convert its fleet of Collection Vehicles used in the Franchise Area to zero emissions vehicles in compliance with Applicable

Laws, including without limitation the State of California's Advanced Clean Fleets regulations, and any similar or related regulations. In the event that renewable gas, as defined in 14 CCR Section 18982(a)(62) (hereafter "RNG"), is commercially and reasonably available for use in the City, Franchisee shall make reasonable efforts for all Collection vehicles to be powered by RNG generated by a local facility or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information upon its reasonable availability. Franchisee shall agree to the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

9.3 Specific Requirements

Each Collection Vehicle utilized by Franchisee in the performance of this Agreement shall meet the following minimum standards:

9.3.1 ☐ Each Collection Vehicle shall be fueled by clean air technology in accordance with Applicable Laws.

9.3.2 ☐ Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

9.3.3 ☐ Each Collection Vehicle shall be inspected regularly by Franchisee to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Franchisee shall provide copies of its Biannual Inspection of Terminal inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Franchisee's maintenance records, available to City upon request by the City Manager.

9.3.4 ☐ Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

9.3.5 ☐ Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all Applicable Laws, including, without limitation, the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Franchisee shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

9.3.6□ As frequently as determined necessary by the City Manager, each Collection Vehicle shall be painted and shall have routine body work performed so that such vehicles do not become unsightly, as determined by the City Manager.

9.3.7□ Franchisee's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Franchisee's Collection Vehicles, when such vehicles are providing Collection services within City Limits, shall be subject to approval by City.

9.3.8□ Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out and shall be washed at least once every seven (7) calendar days and steam cleaned on a regular basis.

9.3.9□ Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Franchisee's dispatcher and/or main office.

9.3.10□ Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor-based back-up system, or its equivalent.

9.3.11□ Franchisee shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the Solid Waste Handling Services contemplated by this Agreement.

9.3.12□ Franchisee shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly.

9.3.13□ Franchisee shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition.

9.3.14□ Franchisee shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

9.3.15□ No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Franchisee shall clean up any leaks or spills from its Collection Vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

9.3.16□ Within 30 days of the Effective Date, Franchisee shall furnish City a written inventory of all vehicles, including Collection Vehicles, used in providing Solid Waste Handling Services pursuant to this Agreement. This inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, fuel type (i.e., diesel, LNG, RNG, zero emission, etc.) and capacity. The vehicle inventory list shall be included in the annual reports provided to City pursuant to Section 10, and updated with new vehicles that have been placed into service in the Franchise Area. The City Manager's approval shall be obtained prior to any Collection Vehicle newly being placed into service in the Franchise Area following the Effective Date, with a goal of ensuring all such vehicles comply with the Applicable Laws and encouraging collaboration in connection with means by which to advance City's sustainability goals, which approval shall not be unreasonably withheld.

9.3.17□ Franchisee shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors, and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

9.3.18□ Franchisee shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

9.3.19□ The average fleet age, when applied to all Collection Vehicles used by Franchisee in the Franchise Area, shall be no more than ten (10) years of age at any time during the Term, nor may any Collection Vehicle be purchased for use in the Franchise Area that is over seven (7) years of age at the time of purchase; provided however use of any Collection Vehicle(s) that would render the average fleet age to exceed ten (10) years may be approved in writing by the City Manager if he/she determines doing so is reasonable.

9.4□ Costs of Operation and Damages

Franchisee shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including, without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5□ City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any reasonable time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

9.6□ Correction of Defects and Removal of Vehicles from Use within City

Franchisee agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe,

unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

SECTION 10

REPORTING REQUIREMENTS

10.1 ☐ General Application and Interpretation.

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Franchisee. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the Parties; provided any such change is approved by the City Manager in writing, and consistent with the Applicable Laws. Franchisee agrees to provide all information in its control necessary for City to meet its monthly, quarterly, and annual reporting obligations under the Applicable Laws, and to do so in a format reasonably acceptable to City. The express requirements set forth herein are not intended as a limitation, but rather set forth minimums which Franchisee shall comply with in order to meet its obligation to provide information and reports. Franchisee shall provide any additional information or reports requested by City to enable it to meet its obligations under the Applicable Laws not set forth herein.

10.2 ☐ Use of Reporting Software.

Franchisee shall utilize computer software, satisfactory to City, to produce reports required under this Section, and shall be responsible for costs associated therewith.

10.3 ☐ Customized Reports.

Upon request from City, Franchisee shall prepare and provide customized reports if necessary for City to respond to requests from CalRecycle, containing information that Franchisee is required to maintain hereunder in any reasonable format as may be requested by City.

10.4 ☐ Monthly Reports

At a minimum, Franchisee shall on a monthly basis report the following to the City, with each monthly report including a year-to-date summary page as well as the data submitted from the monthly report(s) submitted in the previous calendar year:

10.4.1 ☐ a summary of all Solid Waste Collected, sorted by type of waste Refuse, Recyclable Materials, and Organic Waste (and within each type, any additional breakdown reasonably available to Franchisee as a result of its normal operations (i.e., paper, CRV, Food Waste).

10.4.2 ☐ the number of Customers that received Temporary Service, including the number and type of Containers provided.

10.4.3□ the facilities where all Solid Waste was delivered for disposal or processing and including the weight in tons so delivered; and, if requested by City, true and accurate copies of landfill and processing facility tipping receipts, records showing delivery at processing or reuse facilities, and similar such documents in order to enable City to verify Franchisee's reports.

10.4.4□ a narrative of problems encountered (i.e., scavenging or other issues) and actions taken to address such problems and any recommendations for the City to assist with such actions.

10.4.5□ a description of outreach and educational activities conducted, including copies of promotional and/or educational materials distributed to Customers during the month.

10.4.6□ a description of the total quantities in tons of diversion in a manner that complies with the Applicable Laws and is acceptable to CalRecycle.

10.4.7□ the number of Containers used by Franchisee, broken down by Container type utilized and Container capacity.

10.4.8□ the total number of Organic Recycling Waivers granted by City to Franchisee's Customers, and the total number of related verifications performed by Franchisee.

10.4.9□ the total number of Organic Recycling Waivers requested and a summary of the status of each waiver for which information or assistance requested by City from Franchisee is pending.

10.4.10□ a report of contamination monitoring activities including:

10.4.10.1□ the number of route reviews and/or waste evaluations conducted and a summary thereof;

10.4.10.2□ a description of the process used for determining the level of contamination;

10.4.10.3□ a summary of actions taken in cases where contamination was identified

10.4.11□ a report listing all complaints asserting lack of compliance with SB 1383 and a summary of action taken in connection with each.

10.4.12□ a report of activities related to Edible Food Generators including:

10.4.12.1□ the total number of known Tier One and Tier Two Commercial Edible Food Generators that are Customers of Franchisee within the City.

10.4.12.2□ the number of known Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written

agreements with Franchisee's Customers who are Commercial Edible Food Generators for Food Recovery

10.4.12.3 ~~the~~ the number of Tier One and Tier Two Commercial Edible Food Generators that are Franchisee's Customers and are participating in an Edible Food Recovery program

10.4.12.4 ~~a~~ report of the total pounds of Edible Food Recovered in the previous month if known to Franchisee.

10.4.12.5 ~~the~~ the number of Commercial Edible Food Generators that are Franchisee's Customers and participate in an Edible Food Recovery program, if known to Franchisee, and any known reasons provided by those who do not participate.

10.5 ☐ Quarterly Reports

Franchisee shall on a quarterly basis provide a summary of the information required in the monthly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6 ☐ Annual Reports

Within forty-five (45) days after the end of each calendar year during the Term and within forty-five (45) days after the end of the Term, Franchisee shall submit a written annual report, in a form approved by City, which includes, at least the following information:

10.6.1 ☐ a summary of the information required in the monthly and quarterly reports, in a format reasonably acceptable to City, and such other information and/or back up data as may be reasonably requested by City to enable it to comply with its obligations under the Applicable Laws.

10.6.2 ☐ a summary of the previous year's activities including, but not limited to, Solid Waste Handling Services begun or discontinued during the reporting year, and the number of Franchisee's Customers broken down on a monthly basis;

10.6.3 ☐ any information and reports not otherwise contained in this Section 10 required by City to meet its reporting obligations imposed by the Applicable Laws;

10.6.4 ☐ a revenue statement, certified by the chief financial officer of Franchisee, setting forth all fees and payments to the City, including Franchise Fees, and the basis for the calculation thereof, including specifically a breakdown of sources of revenue included in Gross Receipts and the amount of revenue derived from each such source comprising Gross Receipts.

10.7 ☐ Confidential and Proprietary Information.

Franchisee acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"), lawfully issued subpoenas, and other legal obligations. City acknowledges

that certain records, reports, or information contained therein, which Franchisee may be required to maintain under this Agreement or Applicable Law, are protected by or exempt from disclosure under Applicable Law (including, without limitation, law governing data security and privacy rights) or are of a proprietary or confidential nature or may include intellectual property of Franchisee, including, without limitation, any confidential information, copyrighted material, proprietary information, trade secrets or trademark/service mark, as well as any and all such documents or reports containing such information (together, "Franchisee's Intellectual Property"). In such instances, Franchisee will inform City in writing of which records which may be protected or exempt from disclosure under Applicable Law or contain Franchisee's Intellectual Property. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act or a subpoena or other court order requesting disclosure of records which include Franchisee's Intellectual Property, City shall notify Franchisee of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) days. Franchisee shall within five (5) days either: (i) consent in writing to the disclosure of the records; or (ii) seek and obtain, at Franchisee's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the records. Nothing in this Agreement shall require Franchisee to disclose any records, reports, or information protected by or exempt from disclosure under Applicable Law to the City or any third party, or provide any of Franchisee's Intellectual Property to City or any third party under any circumstances. The City agrees to hold all documents and information reviewed by City pursuant to this Agreement which comprise Franchisee's Intellectual Property as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law.

10.8 Format of Reports

Each report shall be submitted to City, addressed to the City Manager or his or her designee. Records related to performance of this Agreement shall be maintained by Franchisee in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Franchisee agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

10.9 Adverse Information

Franchisee shall provide City copies of all reports, pleadings, applications, notifications, communications, and documents, as well as copies of all decisions, correspondence, and actions, and other material adversely affecting this Agreement, or related in any manner to Franchisee's performance of this Agreement, submitted or received by Franchisee to or from the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Franchisee's filing of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

10.10 Disaster and Labor Unrest Plan

Within ninety (90) days after the Effective Date, Franchisee shall prepare an updated draft disaster cleanup and labor unrest implementation plan that sets forth procedures for Collection of Solid Waste, and implementation of other Solid Waste Handling Services set forth herein, following a major disaster such as an earthquake, fire or other similar event, or a strike or labor unrest. The plan shall address, as applicable, priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Franchisee shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Franchisee and City who would have a role in implementing it in the event of a disaster or labor unrest.

10.11 Failure to Report

The refusal of Franchisee to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Franchisee in such report shall be deemed a material breach of this Agreement, and shall subject Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise. In the event City elects to suspend Franchisee's franchise rights for Franchisee's failure to file a report, as a condition to Franchisee's reinstatement, Franchisee shall be required to pay to City a penalty in the amount of Five Hundred Dollars (\$500) for each thirty (30) day period in which the applicable report is delinquent.

SECTION 11 **FRANCHISEE'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, Franchisee shall provide the following:

11.1 Franchise Fee. Franchisee shall pay to City, a franchise fee equal to fourteen percent (14.0%) of Franchisee's annual Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City quarterly within forty-five (45) days following the end of each of the following quarterly periods: April 1, July 1, October 1 and January 1. Should any such due date fall on a weekend, Holiday, or other day in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to fourteen percent (14.0%) of Franchisee's Gross Receipts received in the calendar quarter preceding the date payment is due. The Franchise Fee due hereunder shall apply to Gross Receipts of Franchisee collected after the expiration of the Term hereof relating to Franchisee's performance during the Term. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid, and setting forth the basis their calculation in a manner acceptable to City.

11.2 Reimbursement for SB 1383 Compliance. Franchisee shall make quarterly payments to City to pay its pro-rata share of the amount needed to offset the costs the City incurs in complying with SB 1383 in the Franchise Area (the “SB 1383 Compliance Reimbursement Payment”). The total amount of the SB 1383 Compliance Reimbursement Payment as of April 1, 2025 is Two Hundred Fifty Seven Thousand Dollars (\$257,000). Thereafter, the annual amount of the SB 1383 Compliance Reimbursement Payment shall be adjusted each year as of April 1 by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers, all items index (CPI-U) – Los Angeles, Long Beach, Anaheim, as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the 12 month period ending on the immediately preceding date of December 31.

11.2.1 Commencing April 1, 2026, Franchisee shall make quarterly payments to City on or before April 1, July 1, October 1 and January 1 each year during the Term in an amount equal to Twenty-five percent (25%) of its Designated Annual SB 1383 Contribution. For purposes of this Section 11.2, Franchisee’s “Designated Annual SB 1383 Contribution” shall be the pro-rata share of the total SB 1383 Compliance Reimbursement Payment equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the immediately preceding 12 month period ending December 31, as compared to the total of all Solid Waste Collected in the Franchise Area (in tons) during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements.

11.2.2 Franchisee shall make two payments to City in connection with the Compliance Reimbursement Payment on April 1, 2025. The First payment is to cover the Compliance Reimbursement Payment for the period of September 1, 2024 (the Effective Date) through March 31, 2025; and, the second is to cover the first quarterly payment due for the period commencing April 1, 2025. The amount of each of the two payments due on April 1, 2025 shall be as follows:

11.2.2.1 For the payment intended to apply to the period from the Effective Date through March 31, 2025, the total SB 1383 Compliance Reimbursement Payment shall be One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) [which is based on the total SB 1383 Compliance Reimbursement Payment having been pro-rated over the eight month period between the Effective Date of September 1, 2024, and March 31, 2025]. Franchisee’s Designated Annual SB 1383 Contribution applicable to this payment shall be the pro-rata share of One Hundred Seventy One, Three Hundred Thirty Three Dollars (\$171,333.00) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee’s that have been granted one of the Non-Exclusive Franchise Agreements. One Hundred percent (100%) of Franchisee’s Designated Annual SB 1383 contribution for the period of September 1, 2025 to March 31, 2025 (as noted above) shall be due on April 1, 2025.

11.2.2.2 For the payment intended to apply to cover the first quarterly payment due for the period commencing April 1, 2025, the total SB 1383 Compliance Reimbursement Payment, without modification, shall apply. Franchisee’s Designated Annual SB 1383 Contribution shall be the pro-rata share of Two Hundred Fifty Seven Thousand Dollars

(\$257,000) equal to the percent of Solid Waste Collected (in tons) by Franchisee in the Franchise Area during the period between September 1, 2024 and January 31, 2025, as compared to the total of all Solid Waste Collected (in tons) in the Franchise Area during that same period by all Franchisee's that have been granted one of the Non-Exclusive Franchise Agreements. Twenty-five percent (25%) of Franchisee's Designated Annual SB 1383 contribution for the period of April 1, 2025 to March 31, 2026 (calculated as noted above) shall be due on April 1, 2025. Franchisee shall make three additional payments to City equal to this payment on or before July 1, 2025, October 1, 2025 and January 1, 2025.

11.3 Additional Charges and Interest For Late Payments. In the event Franchisee fails to make any of the payments provided for in this Agreement on or before the dates due, Franchisee shall pay to City, in addition to the amount due, the following amounts:

11.3.1 A sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue; and

11.3.2 Interest on the delinquent sum (excluding the late payment charge referred to in Section 11.3.1) at the maximum legal rate, with said sum to be applied as interest for loss of use of the money due and to be calculated commencing on the date first due through and including the date upon which full payment, including all interest and penalties, is made.

SECTION 12

INDEMNIFICATION, WARRANTIES GUARANTEES AND RELATED OBLIGATIONS PROVIDED IN CONNECTION WITH APPLICABLE LAWS

12.1 Warranties and Representations.

12.1.1 Franchisee warrants and represents that it is familiar with City's SRRE, it is familiar with City's waste stream, and it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws, and all amendments thereto, with respect to the Customers it services hereunder.

12.1.2 Without regard to any related indemnification requirements, Franchisee guarantees to City that it shall carry out its obligations under this Agreement so that with respect to the Customers Franchisee services hereunder: (1) both it and City will at all times be in compliance with the requirements of all Applicable Laws, including specifically AB 939, AB 341, AB 1826 and SB 1383, and (2) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. In meeting this obligation, Franchisee shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the

disposal of residual Solid Waste that remains after Recycling processes have been completed. Commencing immediately upon the Effective Date, Franchisee shall implement all programs necessary to ensure City complies with all state-mandated programs relevant to the services provided hereunder and shall perform public education, awareness, and outreach activities as required by any state-mandated program or as reasonably required by the City Manager in accordance with this Agreement. Franchisee shall submit to the City Manager for review and approval all proposed written public educational, awareness and outreach materials. Franchisee shall engage in any required education, awareness, and outreach activities within thirty (30) days of commencing services to any new Customers, and on not less than an annual basis with all existing Customers. Franchisee shall provide City with monthly, quarterly and annual written reports in a form acceptable to the City Manager and adequate to meet City's filing and reporting requirements under the Applicable Laws, throughout the Term of this Agreement. At City's request, Franchisee shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with any Applicable Laws related to the services contemplated by this Agreement.

12.2 ☐ Mutual Cooperation. City and Franchisee shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, SB 1383, and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions, requests and applications as may be reasonably requested by Franchisee for time extensions in meeting diversion goals, reductions in diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1826, SB 1383 and other Applicable Laws.

12.3 ☐ Performance Requirements. Franchisee's obligations pursuant to the provisions of this Section shall include, but not be limited to, the following terms:

12.3.1 ☐ Indemnification Requirements. Franchisee agrees to defend, with counsel reasonably approved by City, indemnify, and hold harmless the City Indemnitees from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if (1) Franchisee fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; (2) Franchisee fails or refuses to timely implement programs or otherwise comply with the provisions of this Agreement related to the mandates of the Applicable Laws and such failure or refusal prevents or delays City from complying with the Applicable Laws in a timely manner; or (3) the source reduction and Recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the Customers Franchisee services hereunder.

12.3.2 ☐ Assistance to City; Payment of Fees, Fines, and Penalties. In addition to the forgoing, Franchisee agrees, at its sole cost and expense, to:

- (a) ☐ Assist City in responding to inquiries from CalRecycle;

(b) ☐ Assist City in preparing for, and participating in, CalRecycle's biennial review of City's compliance with Applicable Laws;

(c) ☐ Assist City in applying for any extension to comply with any of the Applicable Laws, if so directed by City;

(d) ☐ Assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(e) ☐ Assist City in the development and implementation of a public awareness and education program that is consistent with Applicable Laws, as well as any related requirements of Applicable Laws;

(f) ☐ Provide City with advice on Recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(g) ☐ Defend, with counsel acceptable to City, the City Indemnitees against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle as a result of Franchisee's failure to comply with Applicable Laws, including, without limitation, AB 939, AB 341, AB 1826, and SB 1383; and

(h) ☐ Be solely responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle and reimburse, indemnify and hold harmless City against any and all costs, fees, charges, fines, penalties, or other liabilities, levied against it for violation of any state-mandated diversion requirements, or violation of any other provision of Applicable Laws to the extent arising from or in any way related to Franchisee's performance of its obligations under this Agreement; provided, however, Franchisee's obligation to indemnify City for any penalties or fines set forth in this sub-paragraph shall be in proportion to the amount of such fines or penalties imposed because of Franchisee's delay or failure to perform its obligations hereunder.

12.4 ☐ Annual Compliance Review. City intends to review Franchisee's performance annually at its expense to ensure compliance with the terms and provisions of this Agreement ("Annual Compliance Review"). At a minimum, City intends to have internal staff or qualified outside consultants review Franchisee's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the Solid Waste Handling Services stated herein, implementation of programs required under the Agreement, Franchisee's maintenance and upkeep of records, and Franchisee's compliance with all Applicable Laws. Franchisee shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Franchisee is required to maintain and provide to City; provided that any qualified outside consultant shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law.

SECTION 13

FRANCHISEE'S BOOKS AND RECORDS; AUDITS

13.1 Examination of Records. Franchisee shall maintain all records relating to the Solid Waste Handling Services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, service requests, cash receipts records, AB 939 compliance records, and other documents and materials which reasonably relate to Franchisee's compliance with and performance of the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Franchisee's regular place of business, but in no event outside the County of Orange. Among other things, City shall be allowed to review Franchisee's contracts with its Customers, and shall be allowed to communicate directly with Franchisee's Customers, for the purpose of determining whether Franchisee is in compliance with this Agreement.

13.2 CERCLA Defense Records. City views the ability to defend against CERCLA Claims and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of significant importance. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify the City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Franchisee shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

13.3 Audits by City. City shall have the right to conduct or to contract with an independent qualified auditing firm to perform an audit, at City's expense, of Franchisee's records (the "City Audit") to ensure compliance with the provisions of this Agreement on an annual and/or as-needed basis, to be determined by the City. The independent qualified auditor shall agree to a reasonable non-disclosure agreement with Franchisee to protect Franchisee's Intellectual Property and be subject to California data security and privacy rights under Applicable Law. The City Audit shall include, without limitation, a review of Franchisee's cash receipts records, Solid Waste tonnage Collection, diversion, and other related records, as well as those of each of its parent, subsidiary and/or affiliated companies, as appropriate, to determine Franchisee's Gross Receipts, the accuracy of Franchise Fees paid, and such other information as is reasonably deemed appropriate by the City Manager to evaluate Franchisee's performance hereunder. As part of the City Audit Franchisee's Customer's accounts and related records may be subject to review. While Franchisee will not be required to submit detailed account records, such as the names and addresses of Customers, to the City in connection with required reports hereunder, Franchisee shall make such records and information available for review in connection with the City Audit at Franchisee's business offices.

Should any City Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Franchisee by City,

complete with any additional late charges as set forth herein. If a City Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Franchisee's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Franchisee shall bear the entire cost of such City Audit and shall pay a sum necessary to cover such costs to the City within thirty (30) days of demand.

SECTION 14

RULES AND REGULATIONS OF CITY MANAGER

The City Manager shall have the power to establish rules and regulations respecting the accumulation, Collection and transportation of Solid Waste not inconsistent with the provisions of this Agreement, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Agreement, or any and all Applicable Laws and ordinances, and for the preservation of the public peace, health and safety. Franchisee agrees to comply with any and all such rules and regulations.

SECTION 15

INDEMNIFICATION; LEGAL EXPENSES; BONDS

15.1 ☐ General Indemnification.

15.1.1 ☐ Franchisee hereby agrees to and shall defend, reimburse, indemnify and hold harmless the City Indemnitees from and against any and all claims, suits, actions, proceedings, liabilities, damages, injuries, demands, orders, losses, costs, fees, charges, expenses, fines, liens, penalties, attorneys' fees, consultant fees, forfeitures and judgments, of whatever kind or nature (collectively, "Claims") in law or equity or in other proceedings, whether judicial, quasi-judicial or administrative in nature, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to any property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Franchisee, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation Franchisee's obligation to ensure City complies with the requirements of the County Agreement), all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Franchisee, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, reimbursement, indemnity and hold harmless provisions shall apply regardless of whether such Claim is also caused in part by any of City Indemnitees' negligence, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct. Franchisee further agrees to and shall, upon demand of City, at Franchisee's sole cost and expense, defend (with attorneys acceptable to City) the City Indemnitees against and all Claims in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City

incurs in providing any such defense, either before, during or after the time Franchisee elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Franchisee. Franchisee shall receive credit towards this indemnity obligation for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City

15.1.2□ Franchisee, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the City Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of “Solid Waste” or “Recyclable Material,” the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of City’s authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

15.1.3□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

15.2□ Hazardous Substances Indemnification.

15.2.1□ Without regard to any insurance coverage or requirements (but giving credit to Franchisee for any sums received by or for the benefit of City from insurance obtained by Franchisee for the benefit of City), and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), defend, reimburse, indemnify, and hold the City Indemnitees harmless from and against any and all Claims,(including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, mitigation costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

15.2.1.1□ results in any Claim asserting that any of the City Indemnitees are liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

15.2.1.2□ relates to material Collected, transported, Recycled, treated or disposed of by Franchisee.

15.2.2□ Franchisee’s obligations pursuant to this Section shall apply, without limitation, to:

15.2.2.1□ any Claims brought pursuant to or based on the provisions of any Environmental Laws, and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

15.2.2.2□any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Franchisee of any facility;

15.2.2.3□any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Franchisee;

15.2.2.4□any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

15.3□ Additional Indemnification Requirements.

15.3.1□ The defense, reimbursement, indemnity and hold harmless obligations in this Section shall apply irrespective of the negligence or willful misconduct of Franchisee or any Affiliate of Franchisee, but shall not extend to matters resulting from the City Indemnitees' sole negligence, or willful misconduct.

15.3.2□ The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the termination or expiration of this Agreement.

15.3.3□ With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the defense, reimbursement, indemnity and hold harmless provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

15.4□ Surety. Contemporaneously with execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Ten Thousand Dollars (\$10,000). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirements, it shall be drawn upon a financial institution with an office within fifty (50) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. The cost of the Surety shall be the sole responsibility of Franchisee. The Surety shall be released within ninety (90) days after both (i) the expiration of the Term of this Agreement, and (ii) Franchisee's satisfactory performance of all obligations hereunder.

15.5□ Forfeiture of Surety. In the event Franchisee shall for any reason become unable, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Franchisee shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

15.6 ☐ Use of Surety by City. Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Franchisee with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City; and (2) reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee.

15.7 ☐ Replacement Letter of Credit. City may draw upon the entire letter of credit (if any) utilized to meet Franchisee's obligations pertaining to the Surety, and convert it to a cash deposit, if Franchisee fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 16 **INSURANCE**

16.1 ☐ Insurance Coverage. Franchisee shall procure and maintain during the entire Term of this Agreement the following types of insurance and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Franchisee's performance hereunder or the actions or inactions of any of Franchisee's officers, agents, representatives, employees, or subcontractors in connection with Franchisee's performance. The insurance requirements hereunder in no way limit Franchisee's various defense and indemnification obligations or any other obligations as set forth herein.

16.2 ☐ Comprehensive General Liability. Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate for liability arising out of Franchisee's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the occurrence limit. Such insurance shall be endorsed to:

16.2.1 ☐ Name the City of Irvine and its employees, representatives, officers, officials, agents, representatives, and volunteers (collectively hereinafter "City and City Personnel") as additional insured for claims arising out of Franchisee's performance of this Agreement.

16.2.2 ☐ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.3 ☐ Automobile Liability Insurance. Insurance with a limit of liability of not less than Two Million Dollars (\$2,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary

will equal the minimum limits set above. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.” Such insurance shall be endorsed to:

16.3.1□ Name the City and City Personnel as additional insureds for claims arising out of Franchisee’s performance of this Agreement.

16.3.2□ Provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

16.4□ Workers’ Compensation Insurance.

16.4.1□ In accordance with the Labor Code of California and covering all employees of Franchisee providing any service in the performance of this agreement. Such insurance shall be endorsed to waive the insurer’s right of subrogation against the City and City Personnel with respect to the performance of Franchisee’s obligations under this Agreement.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless your insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Franchisee’s completion of the form attached hereto as Exhibit C shall be a condition precedent to Franchisee’s rights under this Agreement. Should Franchisee certify, pursuant to Exhibit C, that, in the performance of the work under this Agreement, it shall not employ any person in any manner so as to become subject to the workers’ compensation laws of California, Franchisee shall nonetheless maintain responsibility for requiring that any subcontractors performing work under this Agreement have and maintain workers’ compensation insurance, as required by Section 3700 of the Labor Code, for the work performed under this Agreement.

16.5□ Environmental Pollution Control Insurance. Franchisee shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City and City Personnel as an additional insured. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 16.1.

16.6□ Endorsements. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to City for approval. Additional Insured Endorsements shall not:

- (1) Be limited to “Ongoing Operations”
- (2) Exclude “Contractual Liability”
- (3) Restrict coverage to the “Sole” liability of Franchisee

- (4) Contain any other exclusion contrary to the Agreement.

Any Deductible and/or Self-Insured Retentions must be disclosed to City.

16.7 ☐ Acceptability of Insurers. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

16.8 ☐ Insurance of Subcontractors. Franchisee shall be responsible for causing subcontractors to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City and City Personnel as additional insureds to the subcontractor's policies.

16.9 ☐ Verification of Coverage. Franchisee shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

16.10 ☐ Loss or Reduction in Insurance. In the event that Franchisee fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation, to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Franchisee and utilize funds from the Surety to pay the cost of providing such coverage.

SECTION 17

CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 ☐ City's Right to Suspend or Terminate. The City shall have the right to suspend or terminate this Agreement, and the non-exclusive franchise granted herein, upon Franchisee's breach of any of its obligations hereunder.

17.2 ☐ Notice of Default. If the City Manager determines that Franchisee has defaulted in the performance of any obligation hereunder, or that Franchisee's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and Recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Substances (to the extent applicable to Franchisee, and/or Franchisee's activities under this Agreement), the City Manager may provide written notice to Franchisee of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.3 Termination Without Right to Cure. City shall have the right of suspension or termination as a result of Franchisee's failure to timely cure any deficiency as set forth above, which right is in addition to City's right to terminate this Agreement without affording Franchisee an opportunity to cure in circumstances where Franchisee is determined to have materially breached this Agreement. Notwithstanding anything to the contrary in Section 17.2 above, City shall thus be afforded the right to terminate this Agreement without affording the right to cure in the event of any material breach hereof by Franchisee, including without limitation any action, inaction or circumstance defined herein as a material breach, and/or under any of the following circumstances which are hereby defined as material breaches:

17.3.1 ☐ If Franchisee practices, or attempts to practice, any fraud upon City.

17.3.2 ☐ If Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding.

17.3.3 ☐ If Franchisee willfully violates any orders or rulings of any regulatory body other than City having jurisdiction over Franchisee relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Franchisee, Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

17.3.4 ☐ If Franchisee fails to meet the diversion requirements of this Agreement or pursuant to Applicable Laws.

17.3.5 ☐ If Franchisee fails to materially comply with any insurance or indemnification requirement set forth in this Agreement; provided, however, that Franchisee shall have a reasonable opportunity to cure any default relating to the Franchisee's failure to provide the City with proof of insurance, so long as such insurance is in effect at all times.

17.3.6 ☐ If City is required to pay any fine or penalty, which Franchisee is required by the terms hereof to pay, yet which Franchisee fails, refuses, neglects or is unable to timely pay; provided, however, that Franchisee shall have a reasonable opportunity to cure any such default.

17.3.7 ☐ If Franchisee, or any management level employee of Franchisee is convicted of a "Criminal Matter" (as defined herein). For purposes of this Section the term "Criminal Matter" refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

17.4 Termination Procedure. The following procedure shall apply to either of the following:

17.4.1 ☐ any action or inaction by Franchisee which is a material breach of this Agreement, not requiring that Franchisee be afforded the right to cure, or

17.4.2 ☐ any circumstance in which Franchisee fails to correct, to the satisfaction of the City Manager, all deficiencies contained in a written notice of default within the specified

time (or if it is not reasonably possible to correct such deficiencies within the specified time, and Franchisee fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter).

17.4.3□ In the event of either of the above, then the City Manager shall either refer the matter to the City Council for review, or review the matter himself or herself and upon completion of such review notify Franchisee of the City Manager's decision, in writing.

17.5□ City Manager Review. If the City Manager reviews the matter and determines that Franchisee has failed to properly or adequately perform as set forth above, the City Manager, in the exercise of his or her sole discretion, may terminate this Agreement, or take such other action as he or she deems appropriate to pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Franchisee unless Franchisee files a "Notice of Appeal" with the City Clerk within five (5) days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible Council Meeting following the date a Notice of Appeal is given to City.

17.6□ City Council Review. In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter directly to the City Council upon Franchisee's failure to cure a default, the City Council shall set the matter for consideration as a regular agenda item, and the matter shall not require a public hearing. In reviewing the matter the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard. The Council shall determine, in the exercise of its absolute and sole discretion, whether Franchisee has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or take such other action as it deems appropriate to pursue any remedy available to City. The decision of the City Council shall be final.

17.7□ Performance During Reviews. Franchisee's performance under this Agreement is not excused, nor shall its rights to operate hereunder be impacted, during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.8□ Franchisee's Obligations Upon Termination. In the event this Agreement is terminated pursuant to this Section 17 or the Term of this Agreement expires:

17.8.1□ Franchisee shall have no right or authority to engage in Solid Waste Handling Services within the City Limits under this Agreement.

17.8.2□ Franchisee shall remain liable to City for any and all fees that would otherwise be payable by Franchisee, including specifically amounts resulting from the late payment of Franchise Fees.

17.8.3□ Franchisee shall allow its Customers to arrange for Solid Waste Handling Services with a Solid Waste enterprise authorized to perform such services, without penalty or liability for breach of contract.

17.8.4□ Franchisee shall remove all of its Containers used in performance of Solid Waste Handling Services hereunder from the Premises of all Customers, and shall, within such time period as specified by the City Manager, deliver all Solid Waste in such Containers to an Approved Facility for processing or disposal pursuant to the terms hereof. If Franchisee fails to comply with the provisions of this subsection within the time periods prescribed, City shall have the right to take any of such actions that have not been performed by Franchisee. Franchisee shall promptly reimburse City for all sums expended by City in taking such actions, along with a ten percent (10%) administrative fee.

17.9□ City's Remedies Cumulative. The rights and remedies of City set forth in any Section herein shall be in addition to any and all other rights and privileges City may have, and shall not be deemed to limit any such other rights or privileges of City under this Agreement or by virtue of any law.

SECTION 18

FRANCHISEE'S REMEDIES; ADMINISTRATIVE HEARING

18.1□ Administrative Hearing. Should Franchisee contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Franchisee's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the Parties so agree in writing within 30 days of the date notice of the decision is given to the Parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2□ Other Remedies; Claims. Franchisee shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Franchisee shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Franchisee has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3□ Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Franchisee against City arising out of or relating to this Agreement, Franchisee shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 19

ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

This Agreement shall not be sold, hypothecated, sublet, assigned, or otherwise transferred, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Franchisee, either by action or

inaction of Franchisee or by operation of law, without the prior written consent of City which may be withheld with or without cause. For purposes of permitting Franchisee to subcontract with other haulers to assist in providing services hereunder, and provided Franchisee will continue to provide services hereunder with its own employees, the written consent of the City Manager shall suffice. Any other transfer, sale, subcontract, hypothecation, assignment or lease shall require the written consent of the City Council as expressed by a Resolution. Any attempt by Franchisee to hypothecate, subcontract, lease, assign, sell, or otherwise transfer any right or interest in this Agreement without the written consent of City shall be null and void and shall give rise to City's right, but not obligation, to terminate this Agreement.

SECTION 20

GENERAL PROVISIONS

20.1 ☐ Force Majeure. Franchisee shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services, in compliance with its obligations hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting seven (7) days or less (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable), embargoes or delays in transportation, explosion, natural disasters or threats of natural disaster such as floods, earthquakes, landslides, fires, pandemics, quarantines, or "other catastrophic events" which are beyond the reasonable control of Franchisee. The term "other catastrophic events" does not include: (i) the financial inability of Franchisee to perform; (ii) failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies except to the extent the delay is caused by the governmental agency(ies); (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Franchisee; or (iv) strikes or other labor disturbances lasting longer than seven (7) days (unless Franchisee is in compliance with the disaster/labor unrest plan, in which case the time limitation shall not be applicable).

20.2 ☐ Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Franchisee to private or public property shall be promptly repaired or replaced.

20.3 ☐ Pavement Damage. Franchisee shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the Solid Waste Handling Services required hereunder.

20.4 ☐ Right of Entry. Franchisee shall not have the right, until Franchisee receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to this Agreement.

20.5 ☐ City's Authorized Agent. Excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is authorized to take any action with regard to any matter, or enforce any right, set forth herein requiring action by City.

20.6 ☐ Amendments. Except as otherwise expressly stated herein, no amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

20.7 ☐ Independent Contractor. It is expressly understood and agreed that Franchisee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Franchisee shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees and Franchisee hereby expressly waives any claim it may have, or hereafter acquire, to such benefits.

20.8 ☐ Law to Govern; Venue. The laws of the State of California shall govern this Agreement without reference to its conflicts of laws principles. In the event of litigation between the parties, venue and jurisdiction shall lie exclusively in a state court of competent jurisdiction in Orange County, California. The parties agree to waive any potential claim to diversity jurisdiction under Title 28 U.S.C. § 1332 or any other statute, law or judicial authority which actually or colorably provides for federal jurisdiction.

20.9 ☐ Joint Drafting. In the event of any legal proceeding this Agreement shall be interpreted as if jointly drafted by the Parties.

20.10 ☐ Section Headings. The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

20.11 ☐ Successors and Assigns. The terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

20.12 ☐ Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach or violation of the same or of any other term, covenant or condition.

20.13 Notices. All notices, or other communications whatsoever which this Agreement contemplates or requires either Party to give to the other, shall, except as otherwise provided herein, be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party as follows:

To City: City of Irvine
Attn: City Manager
One Civic Center Plaza
Irvine, CA 92623

To Franchisee: Waste Management Collection and Recycling, Inc.
16122 Construction Cir E
Irvine, CA, 92606
Attn: Public Sector Solutions

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

20.14 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or would otherwise frustrate the purposes of this Agreement.

20.15 Exhibits Incorporated. Exhibits A through E are attached to and incorporated in this Agreement by reference.

20.16 Attorneys' Fees and Litigation Costs. In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs, without regard to whether the matter proceeds to trial. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

20.17 Corporate Resolution. Concurrent with the execution of this Agreement, Franchisee shall provide City with a corporate resolution of its Board of Directors demonstrating the authority for the undersigned to enter and lawfully bind Franchisee to this Agreement, or in the event Franchisee is not a Corporation, with such evidence of authority as required by the City Manager.

20.18 Integration. This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice

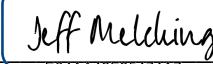
of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

20.19 ☐ Compliance with Law. In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.


IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates indicated below.

CITY OF IRVINE
a California municipal corporation

APPROVED AS TO FORM:

Signed by:

E04AA49F95474A7...
City Attorney

Date: 8/30/2024

Signed by:

7809AA719A2B4C7...
City Manager

ATTEST:


Date: 8/30/2024

DocuSigned by:

0ECAD91F02E547D...
City Clerk

Date: 8/29/2024

Waste Management Collection and Recycling, Inc.
Franchisee dba Waste Management of Orange County

Signed by:

AD8EDC9286654EB...

Title: Michael Hammer, President- Southern California Area

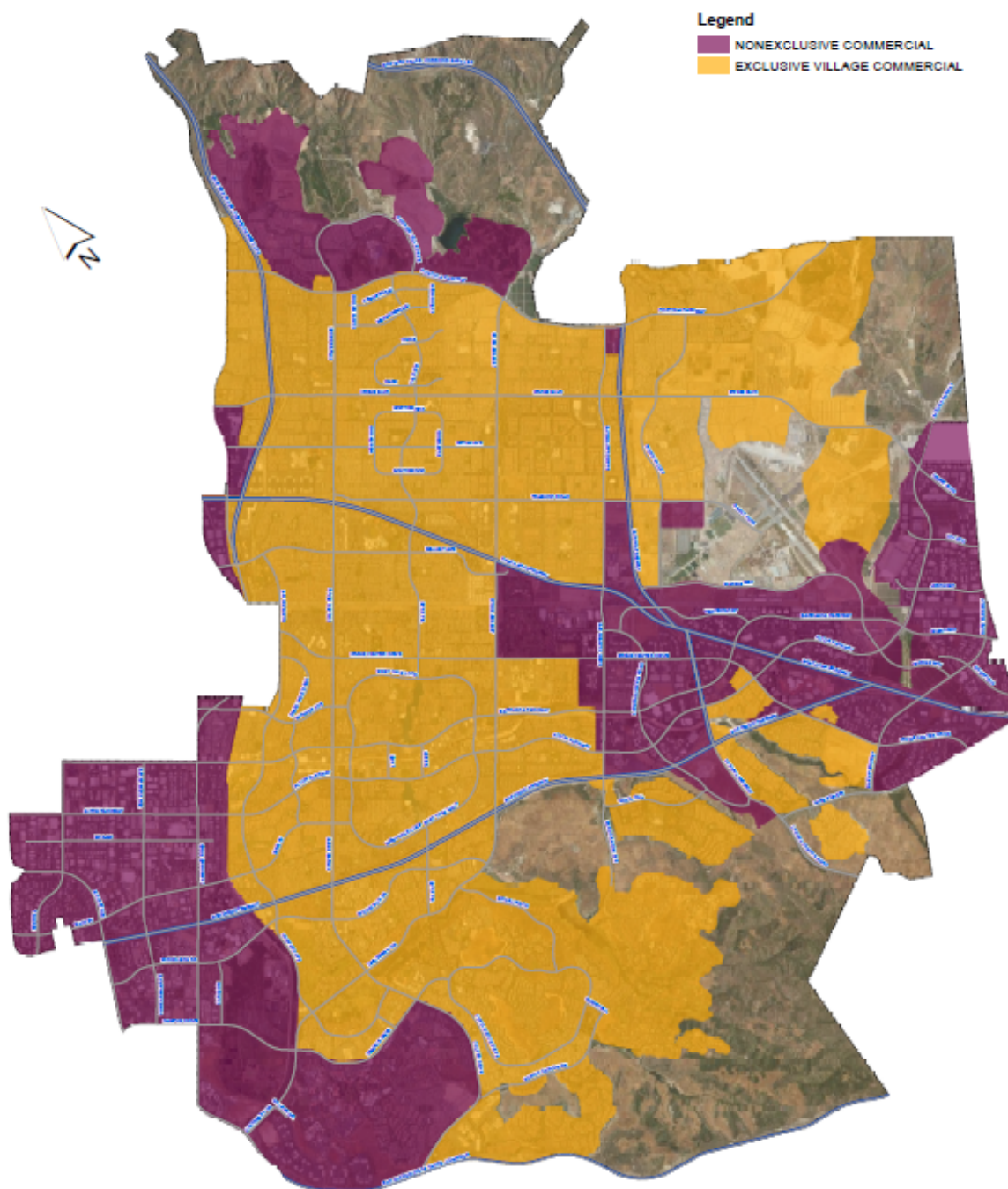
EXHIBIT A

Village Commercial Premises Map

EXHIBIT A

SOLID WASTE COLLECTION SERVICE AREA MAP

CITY OF IRVINE



NOTE: Pursuant to California Public Resources Code Section 49520, et seq., some solid waste haulers may have legal rights to provide waste services to certain areas in the City regardless of the area designations on this map. All franchised haulers are eligible to provide collection of Construction and Demolition Debris and Temporary Bin Service, as defined in the Nonexclusive Franchise Agreement, to any premises within the City on an as needed and temporary basis. The terms and limitations of this agreement shall not apply to waste services provided at the facilities or properties of public agencies within the City limits that are not subject to the legal jurisdiction of the City of Irvine, including but not limited to public schools and colleges, and services to State, County and other governmental agencies.

EXHIBIT B

CONTAINER/BIN SPECIFICATIONS

- ☐ All Containers utilized by Franchisee shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City.
- ☐ Each Refuse, Organic Waste and Recycling Cart or Bin utilized by Franchisee shall be labeled in a manner and with graphics that contain all information required by the Applicable Laws, and subject to approval by City, and at a minimum shall: (1) explain/depict the items designated to be Collected in the Container, as well as items which are prohibited from being placed in each Container; and, (2) identify the name of Franchisee and Franchisee's phone number for service related issues, including complaints.
- ☐ Any Containers used after the Effective Date shall comply with the Applicable Laws, including any associated color requirements of the Applicable Laws; provided Containers previously distributed in connection with the Prior Agreement may continue to be used provided doing so complies with the Applicable Laws related to such Containers.

EXHIBIT C**Workers' Compensation Insurance Certification**

Contract Services Description: _____

WORKERS' COMPENSATION DECLARATION


I hereby affirm under penalty of perjury one of the following declarations:

(CHECK ONE APPLICABLE BOX BELOW)

☐ **I have and will maintain workers' compensation insurance**, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this Agreement and shall submit insurance certificates evidencing such coverage as set forth herein.

☐ I certify that, in the performance of the work under this Agreement, **I shall not employ any person** in any manner so as to become subject to the workers' compensation laws of California, and I hereby agree to indemnify, defend, and hold harmless the City of Irvine and all of its officials, employees, and agents from and against any and all claims, liabilities, and losses relating to personal injury or death, economic losses, and property damage arising out of my failure to provide such worker's compensation insurance. I further agree that, **if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions and immediately furnish insurance certificates** evidencing such coverage as set forth herein.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

Dated:	8/29/2024
Contracting Firm:	Waste Management Collection and Recycling, Inc. dba Waste Management of Orange County
Signature:	
Title:	Michael Hammer, President- Southern California Area
Address:	9081 Tujunga Avenue, Sun Valley, CA 91352



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/1/2025

12/13/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LOCKTON COMPANIES 3657 BRIARPARK DRIVE, SUITE 700 HOUSTON TX 77042 866-260-3538	CONTACT NAME:	FAX (A/C, No):	
	PHONE (A/C, No, Ext):	E-MAIL ADDRESS:	
INSURED 1306000 WASTE MANAGEMENT HOLDINGS, INC. & ALL AFFILIATED, RELATED & SUBSIDIARY COMPANIES INCLUDING: WASTE MANAGEMENT OF ORANGE COUNTY - SANTA ANA 1800 SOUTH GRAND AVENUE SANTA ANA CA 92705	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: ACE American Insurance Company		22667
	INSURER B: Indemnity Insurance Co of North America		43575
	INSURER C: ACE Fire Underwriters Insurance Company		20702
	INSURER D: ACE Property and Casualty Insurance Company		20699
	INSURER E:		
INSURER F:			

COVERAGES**CERTIFICATE NUMBER:** 13539349**REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU INCLUDED <input checked="" type="checkbox"/> ISO FORM CG00010413 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y	Y	HDO G48902339	1/1/2024	1/1/2025	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 5,000,000 MED EXP (Any one person) \$ XXXXXXXX PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 6,000,000 PRODUCTS - COMP/OP AGG \$ 6,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> MCS-90	Y	Y	MMT H10822294	1/1/2024	1/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	Y	Y	XEU G27929242 009	1/1/2024	1/1/2025	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000 \$ XXXXXXXX
B A C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	Y N/A	WLR C55517010 (AOS) WLR C55516881 (AZ,CA & MA) SCF C55517083 (WI)	1/1/2024 1/1/2024 1/1/2024	1/1/2025 1/1/2025 1/1/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 3,000,000 E.L. DISEASE - EA EMPLOYEE \$ 3,000,000 E.L. DISEASE - POLICY LIMIT \$ 3,000,000
A	EXCESS AUTO LIABILITY	Y	Y	XSA H10822233	1/1/2024	1/1/2025	COMBINED SINGLE LIMIT \$9,000,000 (EACH ACCIDENT)

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

BLANKET WAIVER OF SUBROGATION IS GRANTED IN FAVOR OF CERTIFICATE HOLDER ON ALL POLICIES WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT WHERE PERMISSIBLE BY LAW. CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED (EXCEPT FOR WORKERS' COMP/EL) WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER**CANCELLATION** See Attachments

13539349
CITY OF IRVINE
C/O EXIGIS RISK MANAGEMENT SERVICES
P.O. BOX 947
MURRIETA CA 92564

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ADDITIONAL INSURED IN FAVOR OF THE CITY OF IRVINE AND ITS EMPLOYEES, REPRESENTATIVES, OFFICERS, AND AGENTS(ON ALL POLICIES EXCEPT WORKERS' COMPENSATION/EL) WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.THE INSURANCE AFFORDED TO THE ADDITIONAL INSURED AS DESCRIBED IN THIS CERTIFICATE OF INSURANCE FOR WORK PERFORMED BY THE NAMED INSURED IS PRIMARY AND NON-CONTRIBUTORY TO ANY SIMILAR COVERAGE MAINTAINED BY THE ADDITIONAL INSURED WHERE AND TO THE EXTENT REQUIRED BY CONTRACT.WAIVER OF SUBROGATION IN FAVOR OFTHE CITY OF IRVINE AND ITS EMPLOYEES, REPRESENTATIVES, OFFICERS, AND AGENTS ON ALL POLICIES WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT WHERE PERMISSIBLE BY LAW.

POLICY NUMBER: HDO G48902339

COMMERCIAL GENERAL LIABILITY
CG 20 10 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Any Owner, Lessee or Contractor whom you have agreed to include as an additional insured under a written contract, provided such contract was executed prior to the date of loss.	All locations where you are performing ongoing operations for such additional insured pursuant to any such written contract.
Information required to complete this Schedule, if not shown above, will be shown in the	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we

will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

POLICY NUMBER: HDO G48902339

COMMERCIAL GENERAL LIABILITY
CG 24 04 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

SCHEDULE

<p>Name Of Person(s) Or Organization(s):Any person or organization against whom you have agreed to waive your right of recovery in a written contract, provided such contract was executed prior to the date of loss.</p>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of **Section IV — Conditions:**

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

NON-CONTRIBUTORY ENDORSEMENT FOR ADDITIONAL INSURED

Named Insured Waste Management, Inc.			Endorsement Number
Policy Symbol HDO	Policy Number HDO G48902339	Policy Period 1/1/2024 to 1/1/2025	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
COMMERCIAL GENERAL LIABILITY COVERAGE

Schedule

Organization Additional Insured Endorsement

Any additional insured with whom you have agreed to provide such non-contributory insurance, pursuant to and as required under a written contract executed prior to the date of loss.

(If no information is filled in, the schedule shall read: All persons or entities added as additional insureds through an endorsement with the term "Additional Insured" in the title)

For organizations that are listed in the Schedule above that are also an Additional Insured under an endorsement attached to this policy, the following is added to Section IV.4.a:

If other insurance is available to an insured we cover under any of the endorsements listed or described above (the "Additional Insured") for a loss we cover under this policy, this insurance will apply to such loss on a primary basis and we will not seek contribution from the other insurance available to the Additional Insured.



Authorized Agent

Workers' Compensation and Employers' Liability Policy

Named Insured WASTE MANAGEMENT, INC. 800 CAPITOL STREET, SUITE 3000 HOUSTON TX 77002	Endorsement Number
	Policy Number Symbol: WLR Number: WLR C55517010 (AOS)
Policy Period 1/1/2024 TO 1/1/2025	Effective Date of Endorsement 1/1/2024
Issued By (Name of Insurance Company) Indemnity Insurance Co of North America	
Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.	

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION AGAINST WHOM YOU HAVE AGREED TO WAIVE YOUR RIGHT OF RECOVERY IN A WRITTEN CONTRACT, PROVIDED SUCH CONTRACT WAS EXECUTED PRIOR TO THE DATE OF LOSS.

For the states of CA, UT, TX, refer to state specific endorsements.
This endorsement is not applicable in KY, NH, and NJ.

The endorsement does not apply to policies in Missouri where the employer is in the construction group of code classifications. According to Section 287.150(6) of the Missouri statutes, a contractual provision purporting to waive subrogation rights against public policy and void where one party to the contract is an employer in the construction group of code classifications.

For Kansas, use of this endorsement is limited by the Kansas Fairness in Private Construction Contract Act(K.S.A.. 16-1801 through 16-1807 and any amendments thereto) and the Kansas Fairness in Public Construction Contract Act(K.S.A 16-1901 through 16-1908 and any amendments thereto). According to the Acts a provision in a contract for private or public construction purporting to waive subrogation rights for losses or claims covered or paid by liability or workers compensation insurance shall be against public policy and shall be void and unenforceable except that, subject to the Acts, a contract may require waiver of subrogation for losses or claims paid by a consolidated or wrap-up insurance program.



Authorized Representative

Workers' Compensation and Employers' Liability Policy

Named Insured WASTE MANAGEMENT, INC . 800 CAPITOL STREET, SUITE 3000 HOUSTON TX 77002	Endorsement Number
Policy Period 1/1/2024 TO 1/1/2025	Policy Number Symbol: WLR Number: WLR C55516881 (AZ,CA & MA) Effective Date of Endorsement 1/1/2024
Issued By (Name of Insurance Company)	
Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.	

CALIFORNIA WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because California is shown in Item 3 .A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule, where you are required by a written contract to obtain this waiver from us.

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

Schedule

1 . () Specific Waiver
Name of person or organization:

(X) Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2 . Operations:

ALL OPERATIONS CONDUCTED BY AN INSURED PURSUANT TO SUCH
WRITTEN CONTRACT

3 . Premium :

The premium charge for this endorsement shall be 2.0 percent of the California premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4 . Minimum Premium : \$0

Authorized Agent

Workers' Compensation and Employers' Liability Policy

Named Insured WASTE MANAGEMENT, INC. 800 CAPITOL STREET, SUITE 3000 HOUSTON TX 77002	Endorsement Number
	Policy Number Symbol: SCF Number: SCF C55517083 (WI)
Policy Period 1/1/2024 TO 1/1/2025	Effective Date of Endorsement 1/1/2024
Issued By (Name of Insurance Company) ACE Fire Underwriters Insurance Company	
Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.	

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION AGAINST WHOM YOU HAVE AGREED TO WAIVE YOUR RIGHT OF RECOVERY IN A WRITTEN CONTRACT, PROVIDED SUCH CONTRACT WAS EXECUTED PRIOR TO THE DATE OF LOSS.

For the states of CA, UT, TX, refer to state specific endorsements.
This endorsement is not applicable in KY, NH, and NJ.

The endorsement does not apply to policies in Missouri where the employer is in the construction group of code classifications. According to Section 287.150(6) of the Missouri statutes, a contractual provision purporting to waive subrogation rights against public policy and void where one party to the contract is an employer in the construction group of code classifications.

For Kansas, use of this endorsement is limited by the Kansas Fairness in Private Construction Contract Act(K.S.A.. 16-1801 through 16-1807 and any amendments thereto) and the Kansas Fairness in Public Construction Contract Act(K.S.A 16-1901 through 16-1908 and any amendments thereto). According to the Acts a provision in a contract for private or public construction purporting to waive subrogation rights for losses or claims covered or paid by liability or workers compensation insurance shall be against public policy and shall be void and unenforceable except that, subject to the Acts, a contract may require waiver of subrogation for losses or claims paid by a consolidated or wrap-up insurance program.

Authorized Representative

ADDITIONAL INSURED ENDORSEMENT

Named Insured Waste Management, Inc.			Endorsement Number
Policy Symbol MMT	Policy Number MMT H10822294	Policy Period 1/1/2024 TO 1/1/2025	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Company			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

MOTOR CARRIER COVERAGE FORM

Schedule

Name of Person or Organization: any person or organization whom you have been required to include as an additional insured under contract or agreement, executed prior to the date of loss

WHO IS AN INSURED (Section II) is amended to include as an additional insured the person or organization shown in the Schedule, but only with respect to their liability arising out of the ownership, maintenance or use of a covered "auto" being operated by or on behalf of the Named Insured.

ADDITIONAL INSURED / PRIMARY

Named Insured Waste Management, Inc.			Endorsement Number
Policy Symbol MMT	Policy Number MMT H10822294	Policy Period 1/1/2024 TO 1/1/2025	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Company			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

MOTOR CARRIER COVERAGE FORM

Schedule

Name of Person or Organization: any person or organization for whom you are required, by written contract or agreement, executed prior to the date of loss, to provide primary insurance.

SECTION V; MOTOR CARRIER CONDITIONS; B. GENERAL CONDITIONS; Paragraph 5. Other Insurance - Primary and Excess Insurance Provisions is amended by the addition of the following:

This insurance is primary for the person or organization shown in the schedule, but only with respect to liability arising from the ownership, maintenance or use of a covered "auto" while being operated by or on behalf of the Named Insured. Other Insurance afforded to an additional insured will apply as excess and not contribute as primary to the insurance afforded by the Additional Insured Endorsement.

All other terms and conditions of this policy remain unchanged.

EXHIBIT D

APPROVED FACILITIES

(To be provided by Franchisee and approved by City Manager)



Section 7.6— Proposed Facilities

Listed below are our proposed Approved Facilities as described in Section 7.6 that our company plans to utilize to comply with the requirements of the franchise agreement.

Facility Name:	Type of Material:	Street Address/City:	Phone Number:	E-Mail Address:
Sunset Environmental Transfer Station	Recycling, C&D	16122 Construction Cir. W, Irvine, CA, 92606	562-824-0273	MZavala@WM.com
Waste Management of Orange Transfer Station	Recycling	2050 N. Glassell Street, Orange, CA 92865	657-274-6633	cequihua@wm.com
Azusa MRF	Recycling	1501 W. Gladstone St., Azusa, CA 91702	714-448-4603	savila1@wm.com
OREX at Sun Valley Recycling Park (SVRP)	Food Waste	9227 Tujunga Avenue, Sun Valley, CA 91352	626-825-9495	mharisme@wm.com
South Valley Compost Site (SVC)	Organics	24487 Road 140, Tulare, CA 93274	747-215-0039	kvaughn3@wm.com
WM Compost-Oceanside	Organics	3210 Oceanside Blvd, Oceanside, CA, 92056	760-439-9920	cmarisca@wm.com
WM Compost- Otay Mesa	Organics	434 Alta Rd, San Diego, CA, 92154	760-214-1842	cmarisca@wm.com



Tierra Verde Industries EcoCentre (TVI)	Organics, C&D	8065 Marine Way, Planning Area 51, Irvine, CA 92618	949-395-5080	darren@tierraverdeind.com
CVT Regional Material Recovery Facility and Transfer Station	Food Waste	1131 North Blue Gum Street, Anaheim, CA 92806	714-575-3820	Jcastro@republicservices.com
Prima Deshecha Landfill	MSW	32250 La Pata Ave, San Juan Capistrano, CA 92675	714-834-4000	David.Tieu@ocwr.ocgov.com
Olinda Alpha Landfill	MSW	1942 Valencia Ave, Brea, CA 92823	714-834-4000	David.Tieu@ocwr.ocgov.com
Frank R. Bowerman Landfill	MSW	11002 Bee Canyon Access Rd, Irvine, CA 92602	714-834-4000	David.Tieu@ocwr.ocgov.com

EXHIBIT E

IMPLEMENTATION, OUTREACH AND EDUCATION PLAN

(To be provided by Franchisee and approved by City Manager)

Commercial Edible Food Recovery Program Overview



Program Requirements

California State Senate Bill 1383 (SB 1383) includes a goal to increase the recovery of currently disposed edible food by 20% before January 1, 2025. To meet this statewide goal, the law requires each jurisdiction in California to establish and monitor a robust food recovery program, requiring certain food businesses to send the maximum amount of edible food they would otherwise dispose to food recovery organizations.

Defining Tier One and Tier Two Commercial Edible Food Generators

SB 1383 places commercial edible food generators into two tiers to allow businesses and jurisdictions time to expand or build new food recovery infrastructure and capacity to donate foods that are harder to safely store and distribute.

Tier 1

Tier one businesses typically have more produce, fresh grocery, and shelf-stable foods to donate.



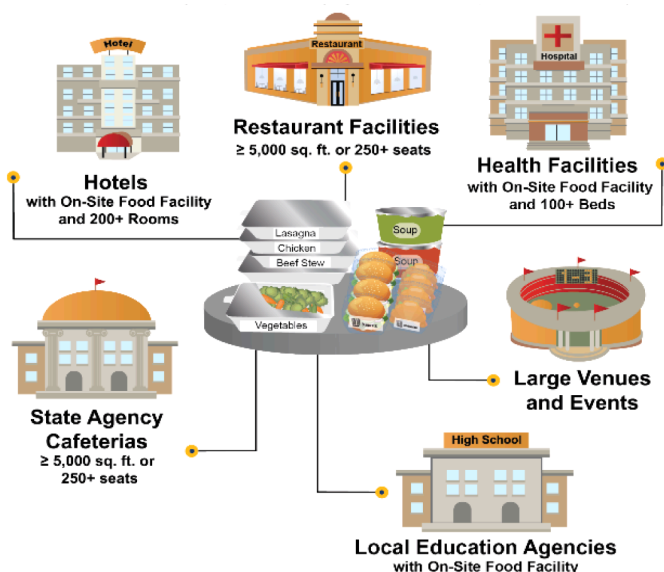
Tier One Donors

Required to Send Surplus Food to Food Organizations Starting January 1, 2022

- Supermarkets with revenue \geq \$2million.
- Grocery Stores with Facilities \geq 10,000 sq. ft.
- Food Service Providers
- Food Distributors
- Wholesale Food Vendors

Tier 2

Tier two businesses typically have more prepared foods to donate, which often require more careful handling to meet food safety requirements (e.g. time and temperature controls).



Tier Two Donors

Required to Send Surplus Food to Food Organizations Starting January 1, 2024

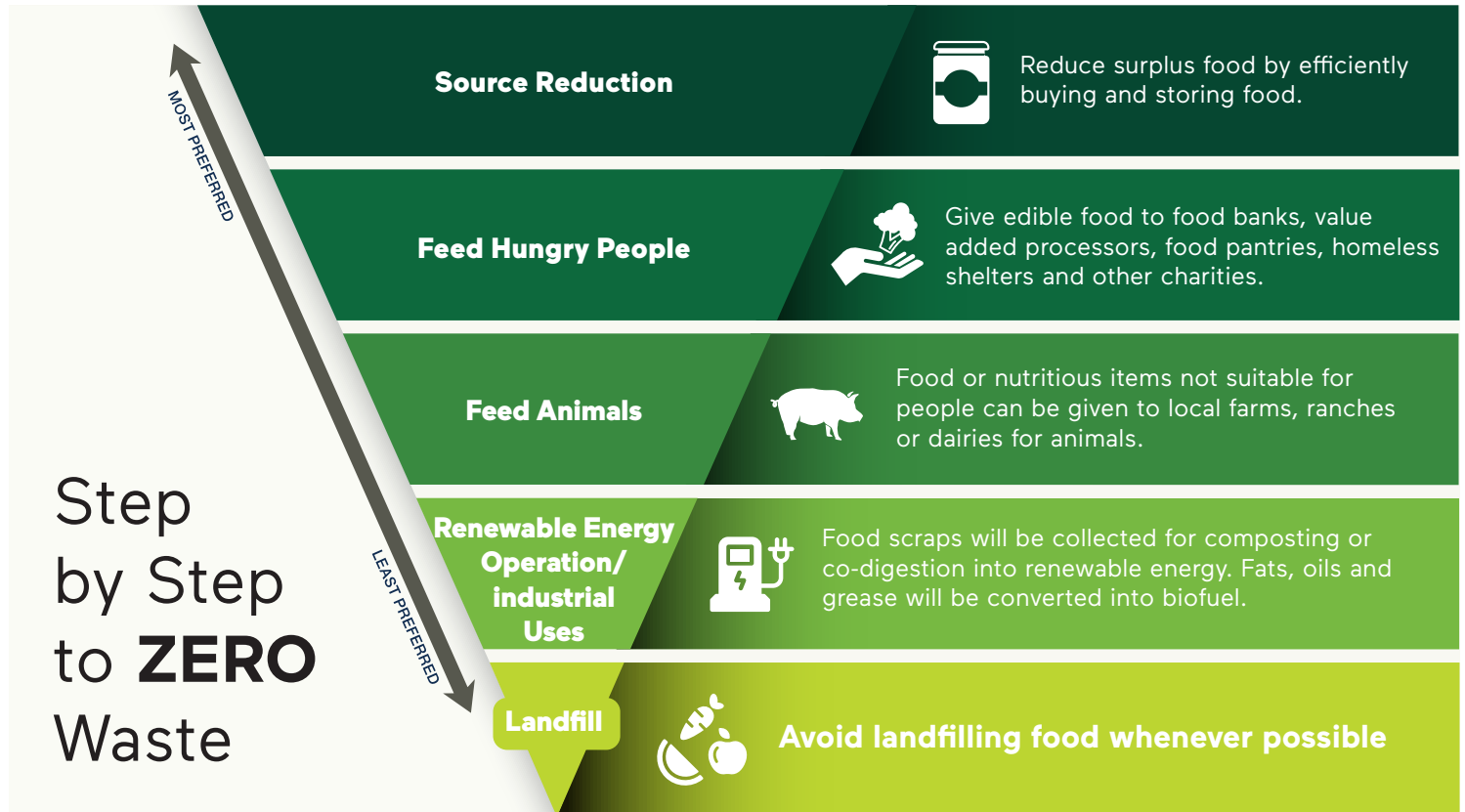
- Restaurants with Facilities \geq 5,000sq. ft. or 250+ seats
- Hotels with an On-Site Food Facility and 200+ Rooms
 - Health Facilities with an On-Site Food Facility and 100+ Beds
 - Large Venues and Events
 - State Agency Cafeterias with Facilities \geq 5,000 sq. ft. or 250+ seats
 - Local Education Agency with an On-Site Food Facility
 - Non-Local Entities

Benefits To Reducing Food Waste

Reduces
over-purchasing
and it saves
money

Reduces
disposal costs
and greenhouse
gas emissions

Saves
resources
and produces
renewable
energy



Tips to prevent food waste

- Order only the food inventory that you need.
- Prepare only the amount of food that you reasonably expect to be purchased or consumed.
- Allow customers to take unconsumed food with them.
- Repurpose unused prepared foods into new dishes.

Major Feeding Agencies For Direct Donation

Second Harvest Food Bank of Orange County
8014 Marine Way, Irvine
(949) 653-2900
www.feedoc.org

Community Action Partnership of Orange County Food Bank
11870 Monarch St., Garden Grove
(714) 897-6670
www.ocfoodbank.org

Laguna Food Pantry
20652 Laguna Canyon Road
(949) 497-7121
lagunafoodpantry.org

South County Outreach
7 Whatney, Suite B, Irvine
sco-oc.org

Mercy Warehouse
37632 El Lazo, Suite A, Laguna Niguel
(949) 910-0024
mercywarehouse.com

St. Killian's Church Food Pantry
26872 Estanciero, Mission Viejo
(949) 586-4440
stkilianmissionviejo.org/outreachfood-pantry

CALIFORNIA'S FOOD WASTE AND RECYCLING LAWS



Mandatory Laws Affecting Businesses and Multi-Family Properties



California State Assembly Bill 1826 (AB 1826) requires all commercial properties that generate two cubic yards of solid waste per week to recycle their food waste.



California State Assembly Bill 341 (AB 341) requires businesses that generate at least four cubic yards of waste per week and multi-family properties of five units or more to have a recycling program in place.



California State Senate Bill 1383 (SB 1383) requires all businesses, multifamily complexes and residences are required to separate organics waste from trash and to subscribe to an organics collection program.

WM Can Help Your Business Meet Compliance Requirements



Step 1. Subscribe to Recycling, Food Waste and Trash Service

We offer free onsite or virtual visits, assessments and technical assistance to help you set up your recycling, food waste and trash programs to maximize diversion cost-effectively. Contact WM at (800) 774-0222 Monday through Friday 8 a.m. - 5 p.m. to set up collection service.



Step 2. Train and Educate Employees, Tenants, Residents and Customers to Properly Sort all Waste

WM can provide education and resources including employee training guides, posters, instructions and signage to ensure materials are disposed of properly.



Step 3. Sort Waste into Proper Containers

Materials must go into the right containers to avoid contamination and possible contamination charges. AB 827 requires businesses to provide 'front of the house' recycling and/or food waste containers to collect recyclable materials generated from products purchased on the premises.

Commercial Cart and Bin Service

Carts and bins are available in different sizes for food waste, recycling and waste collection depending on the amount of waste your business generates. Contact us at (800) 774-0222 to schedule an in-person or virtual assessment.



Hazardous Waste

Orange County residents can dispose of their Household Hazardous Waste items for FREE at any of the County's four Household Hazardous Waste Collection Centers.

Hours of Operation: 9am - 3pm, Tuesday through Saturday (closed on major holidays and during rainy weather)

Telephone: (714) 834-4000

Anaheim Collection Center – 1071 N. Blue Gum Street, 92806

Huntington Beach Collection Center – 17121 Nichols Lane, 92647, Gate 6

Irvine Collection Center – 6411 Oak Canyon, 92618

San Juan Capistrano Collection Center – 32250 Avenida La Pata, 92675



FOOD WASTE | RECYCLING | TRASH

Right Materials - Right Container - Know which container to use

DESECHOS ALIMENTARIOS | RECICLAJE | RESIDUOS GENERALES

Los materiales correctos. El contenedor correcto. Sepa qué contenedor utilizar.

Place Food Waste, Recycling and Trash containers together with proper signage so everyone places the right materials in the right container.

Coloque los contenedores de Desechos Alimentarios, Reciclaje y Residuos Generales junto con la señalización adecuada para que todos pongan los materiales correctos en el contenedor correspondiente.

What Goes in the Food Waste Container: Lo que va en el contenedor de Desechos Alimentarios:



FOOD WASTE AND SOILED PAPER
RESIDUOS DE ALIMENTOS Y PAPEL
MANCHADO POR ALIMENTOS



PRODUCE
FRUTAS Y VERDURAS



MEAT, FISH & POULTRY
CARNE, PESCADO Y AVES



BREAD, PASTA, RICE, GRAINS, COFFEE
GROUNDS AND FOOD SOILED PAPER
PAN, PASTA, ARROZ, GRANOS, RESIDUOS
DE CAFÉ Y PAPEL MANCHADO POR
ALIMENTOS



DAIRY
LÁCTEOS



Food waste may be collected inside paper or plastic bag and placed inside food waste container.

Los desechos de alimentos se pueden recolectar dentro de una bolsa de papel o plástico y colocarse dentro de un contenedor de desechos de alimentos.

DO NOT INCLUDE: NO INCLUYA:

- NO LOOSE PLASTIC BAGS
BOLSAS DE PLÁSTICO SUELTAS
- NO SERVEWARE/UTENSILS
PLATOS Y CUBIERTOS
- NO PLASTIC CONTAINERS
RECIPIENTES DE PLÁSTICO
- NO FOAM CONTAINERS
VASOS Y RECIPIENTES DE ESPUMA
DE POLIESTIRENO
- NO HAZARDOUS WASTE
RESIDUOS PELIGROSOS

What Goes in the Recycling Container: Lo que va en el contenedor de Reciclaje:



PLASTIC BOTTLES & CONTAINERS
BOTELLAS, ENVASES Y RECIPIENTES
DE PLÁSTICO



FOOD & BEVERAGE CANS
LATAS DE ALIMENTOS Y BEBIDAS



GLASS BOTTLES & CONTAINERS
BOTELLAS Y ENVASES DE VIDRIO



FOOD & BEVERAGE CARTONS
CARTONES DE ALIMENTOS Y
BEBIDAS



PAPER
PAPEL



FLATTENED CARDBOARD &
PAPERBOARD
CARTULINA Y CARTÓN APLANADO



Place recyclables directly into your recycling container.

Don't bag your recyclables.

Coloque los reciclables directamente en su contenedor de Reciclaje. **No meta sus materiales reciclables en bolsas.**

DO NOT INCLUDE: NO INCLUYA:

- NO LOOSE PLASTIC BAGS
BOLSAS DE PLÁSTICO SUELTAS
- NO FOAM CONTAINERS
VASOS Y RECIPIENTES DE ESPUMA
DE POLIESTIRENO
- NO CLOTHING, FURNITURE OR
CARPET
ROPA, MUEBLES O ALFOMBRAS
- NO HAZARDOUS WASTE
RESIDUOS PELIGROSOS

What Goes in the Trash Container: Lo que va en el contenedor de Residuos Generales:



GARDEN HOSE
MANGUERAS DE JARDÍN



BROKEN CERAMIC DISHES & POTS
PLATOS Y OLLAS DE CERÁMICA ROTOS



CANDY, SNACK & FOOD WRAPPERS
ENVOLTURAS DE DULCES, BOCADILLOS
Y ALIMENTOS



CHIP BAGS
BOLSAS DE FRITURAS



FOAM CONTAINERS
VASOS, PLATOS Y RECIPIENTES
DE ESPUMA, DE POLIESTIRENO



DIAPERS
PAÑALES



DO NOT INCLUDE: NO INCLUYA:

- NO FOOD WASTE/RECYCLABLES
RECICLABLES O DESECHOS
ALIMENTARIOS
- NO HAZARDOUS WASTE
RESIDUOS PELIGROSOS
- NO ELECTRONICS
RESIDUOS ELECTRONICOS
- NO BATTERIES, TIRES OR PAINT
BATERIAS, NEUMÁTICOS OR PINTURA
- NO FLAMMABLE MATERIAL
MATERIAL INFLAMABLE

To Learn More Visit: wm.com

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WM Customer Service (800) 774-0222

