AGREEMENT FOR SOLID WASTE, RECYCLABLES, AND GREEN WASTE/FOOD WASTE

COLLECTION, PROCESSING, AND DISPOSAL SERVICES

BETWEEN

THE CITY OF FAIRFIELD,
  a California municipal corporation

AND

REPUBLIC SERVICES INC.,
  a Delaware corporation

through its wholly owned subsidiary,

SOLANO GARBAGE COMPANY,
  a California corporation

September 6, 2011
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THIS AGREEMENT FOR SOLID WASTE, RECYCLABLES, AND GREEN WASTE/FOOD WASTE COLLECTION, PROCESSING, AND DISPOSAL SERVICES ("Agreement") is entered into as of the ___ day of ________, 2011, by and between the CITY OF FAIRFIELD, a California municipal corporation, organized and existing under the laws of the State of California ("City") and REPUBLIC SERVICES, INC., a Delaware corporation, through its wholly owned subsidiary, SOLANO GARBAGE COMPANY, a California corporation ("Collector"), as follows:

RECATALS

This Agreement is entered into on the basis of the following facts, understandings, and intentions of the parties:

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (Public Resources Code Section 49100, et seq.; hereinafter the “Act”) established a Solid Waste management process which requires cities and other local jurisdictions to implement source reduction, reuse, and Recycling as integrated waste management practices; and

B. The Act authorizes and requires local agencies to make adequate provisions for Solid Waste handling within their jurisdictions; and

C. The City Council has enacted Chapter 9 of the Fairfield City Code, which establishes standards for the Collection and removal of Solid Waste, Recyclables, and Green Waste/Food Waste, the Disposal of Solid Waste, the Recycling of Recyclables, and requirements for Collection agreements; and

D. Collector and City have previously entered into that certain Agreement between the City of Fairfield and Solano Garbage Company, Inc., for Solid Waste and Recyclables Collection, Processing and Disposal Services dated on or about July 16, 2001 (the “2001 Agreement”), which Agreement expires by its terms on November 15, 2012; and

E. Prior to the 2001 Agreement, Collector and City had entered into various other agreements granting Collector the right to collect Solid Waste within the City; and

F. Pursuant to Sections 49300 and 49500-49523 of the Act, City is authorized to enter into an exclusive agreement for the Collection and Disposal of Solid Waste; and

G. Pursuant to this Agreement, City desires to engage Collector as an independent contractor to exclusively provide automated Solid Waste, Green Waste/Food Waste and Recyclables Collection Services in the City. Collector shall furnish all personnel, equipment,
and supplies necessary to collect, or otherwise remove and dispose of all Solid Waste, Green Waste/Food Waste and Recyclables, as defined herein, generated or accumulated at all Residential and Commercial/Industrial Premises within the City, except as otherwise specifically provided herein; and

H. Also pursuant to this Agreement, City desires to engage Collector as an independent contractor to exclusively provide street sweeping services throughout the City. Collector shall furnish all personnel, equipment, and supplies necessary to Street Sweep all curb miles and municipal parking lots within the Residential and Commercial/Industrial areas of the City, and remove and dispose of all Street Sweeping Fines, as defined herein; and

I. Collector has represented and warranted to City that it has the experience, responsibility, and qualifications to implement the Collection of Solid Waste, Recyclables, and Green Waste/Food Waste, and to arrange with residents and other entities in the City for the Collection, safe transport, Processing, and Disposal of all materials in compliance with Applicable Law and the provisions of this Agreement; and

j. City desires to help improve the air quality in the greater Fairfield area, by providing for the use of Collection vehicles that use liquid natural gas (“LNG”) instead of diesel fuel; and

K. As a material inducement to City entering into this Agreement, Collector has agreed that all Collection vehicles used in the provision of services pursuant to this Agreement will use LNG, and not diesel fuel, and will be new within three (3) years of the Commencement Date; and

L. As a material inducement to City entering into this Agreement, Collector has agreed to implement the new services and new maximum permissible rates set forth in this Agreement in advance of the date the 2001 Agreement would otherwise have expired; and

M. City and Collector are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and Disposal of Solid Waste, including the Act, RCRA, and CERCLA; and

N. City and Collector desire to leave no doubts as to their respective roles and to make it clear that by entering into this Agreement, City is not thereby becoming a “generator” or “arranger” as those terms are used in the context of CERCLA Section 107 (a) (3), and that it is Collector, not City, which is “arranging for” the Collection of Solid Waste, Green Waste/Food Waste and Recyclables from Residential and Commercial/Industrial Premises in the City, and transporting of same for Disposal, Recycling of Recyclables, and Processing of Green Waste/Food Waste; and
O. As a material inducement to City entering into this Agreement, Collector has agreed to fully indemnify City against all claims, losses, lawsuits or actions relating to any Hazardous Waste at any place where Collector transfers, stores, processes, or disposes of Solid Waste, Green Waste/Food Waste or Recyclables pursuant to this Agreement, or its activities pursuant to this Agreement that result in a release of hazardous substances into the environment; and

P. As a further material inducement to City entering into this Agreement, Collector has agreed to fully indemnify City against all claims, losses, lawsuits or actions relating to any Hazardous Waste at the Designated Disposal Site, regardless of whether such claims, losses, lawsuits or actions relate to Solid Waste Collected from within the City and disposed of before or after the date of this Agreement; and

Q. As a material inducement to City entering into this Agreement, Collector has guaranteed that the Designated Disposal Site has sufficient capacity to accept all Solid Waste collected from within the City during the Term.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to as follows:

ARTICLE 1. DEFINITIONS

1.1. DEFINITIONS

Whenever any term used in this Agreement has been defined by Section 9.030 of Chapter 9 of the Fairfield City Code, the definitions in Chapter 9 shall apply unless the term is otherwise defined in this Agreement. Whenever any term used in this Agreement has been defined by Division 30, Part 1, Chapter 2 of the California Public Resources Code, the definitions in Division 30, Part 1, Chapter 2 shall apply, unless the term is otherwise defined in this Agreement or in Chapter 9 of the City Code. In addition, the following definitions are hereby incorporated into this Agreement:

1.1.1. “Act” shall have the meaning set forth in the first recital of this Agreement.

1.1.2. “Agreement or Collection Agreement” shall mean an agreement between the City and a Solid Waste Enterprise, entered into pursuant to Chapter 9, Article II of the Municipal Code, for the provision of Solid Waste, Recyclables, and Green Waste/Food Waste Collection Services in the City.
1.1.3. “Applicable Law” means all laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the Collection, Processing, and disposition of Solid Waste, Recyclables, and Green Waste/Food Waste, and Street Sweeping Fines that are in force on the Commencement Date and as they may be enacted, issued or amended during the Term.

1.1.4. “Bin” shall mean a detachable Container used in connection with Commercial/Industrial Premises with a capacity equal to or less than seven (7) cubic yards that is serviced using a front end loading vehicle.

1.1.5. “Box”, sometimes known as a “roll-off”, “drop” box or “debris” box, means a wheeled or sledded Container or compactor, generally 10 to 40 cubic yards in size, that is picked up in its entirety by a dedicated truck.

1.1.6. “Bulky Waste” shall mean oversized or overweight household articles placed curbside by a Residential Householder, which oversized or overweight household articles have weights, volumes or dimensions which cannot be accommodated by Solid Waste, Recyclables, or Green Waste/Food Waste Containers for Residential Premises, such as stoves, refrigerators (Freon free), water heaters, washing machines, furniture, sofas, mattresses, box springs, large rugs and Landscaping Debris.

1.1.7. “CalRecycle” means the California Department of Resource Recycling and Recovery.

1.1.8. “Cart” shall mean an industry-standard receptacle for Solid Waste, Recyclables, or Green Waste/Food Waste made of metal, hard rubber or plastic in a range of sizes approximately 35, 65 or 95 gallons with wheels, a handle for ease of movement and a tight-fitting, attached lid, and designed to be dumped mechanically into a Collection vehicle.

1.1.9. “CERCLA” means the Comprehensive Environmental Responsibility Compensation and Liability Act, 42 U.S.C.A. Section 9601 et seq., as amended or superseded, and the regulations promulgated thereunder.

1.1.10. “Change in Law” means any of the following events or conditions, which has a material and adverse effect on the performance by the parties of their respective obligations under this Agreement (except for payment obligations):

(a) the enactment, adoption, promulgation, issuance, modification, interpretation, or written change in administrative or judicial interpretation of any Applicable Law on or after the date of this Agreement; or
the order or judgment of any governmental body, on or after the date of this Agreement, to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of City or of Collector, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

any new or increased governmental fees, charges or taxes applicable that directly cause increases in tipping fees or gate fees at the Approved Facilities listed in Exhibit “D”.

1.1.11. “City” shall mean the City of Fairfield, a California municipal corporation.

1.1.12. “City Code” means the Code of the City of Fairfield, California, as it presently exists or may subsequently be amended.

1.1.13. “City Facility” means: City Hall, Civic Center Complex (excluding library), Senior Center, City Theater, Corporation Yard, all Water Treatment Facilities, all Fire Stations, Dixon Hill Facility, City parks, rights of way, and any other facility or real property used primarily by the City that may be constructed, acquired or leased during the Term.

1.1.14. “City Manager” shall mean the City Manager of the City of Fairfield or his or her designee.

1.1.15. “Collection” shall mean the operation of gathering together within the City, and transporting to the point of Disposal or Processing, any Solid Waste (including Green Waste/Food Waste) and Recyclables.

1.1.16. “Collection Services” means all of the duties and obligations of Collector hereunder.


1.1.18. “Collector Fee” shall mean the fee paid to the City by the Collector pursuant to the Municipal Code Chapter 9.

1.1.19. “Commercial/Industrial Premises” shall mean all occupied real property in the City, except property occupied by state or local governmental agencies which pursuant to state or federal laws are exempt from the requirement to utilize the City’s Collector and except Residential Premises as defined herein, and shall include, without limitation, wholesale and retail
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establishments, restaurants and other food establishments, bars, stores, shops, offices, industrial establishments, manufacturing establishments, service stations, repair, research and development establishments, professional, services, sports or recreational facilities, a Multi-Family Residence that is not a Residential Premises, and any other commercial or industrial business facilities, structures, sites, or establishments in the City.

1.1.20. "Commencement Date" means October 1, 2011.

1.1.21. "Compost" shall have the meaning set forth in Public Resources Code Section 40116, as it now exists or may subsequently be amended.

1.1.22. "Construction and Demolition Waste" shall mean any nonputrescible Solid Waste generated as the result of construction, remodeling, repair, demolition, or renovation operations on any pavement, house, commercial building or other structure, including but not limited to dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastic pipe, roofing material, carpeting, concrete, wood, masonry, rocks, trees, surplus materials, or remnants of new materials, including but not limited to paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble, whether brought on site for fabrication or intended for use on the site, excluding liquid and hazardous wastes.

1.1.23. "Consumer Price Index" or "CPI" means the Consumer Price Index (CPI) Garbage and Trash Collection Index Series ID CUUR0000SEHG02.

1.1.24. "Container" shall mean any Bin, Box or Cart used for the purpose of holding Solid Waste, Recyclables, or Green Waste/Food Waste for Collection.

1.1.25. "Control" means, for purposes of this Agreement, the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a corporation, partnership, joint venture, or other association.

1.1.26. "Designated Disposal Site" means the Solid Waste Disposal facility designated by Collector pursuant to Exhibit "D", Approved Facilities List, subject to City’s right to disapprove the designation pursuant to that Section, for the Disposal of Solid Waste collected pursuant to this Agreement.

1.1.27. "Designated Green Waste/Food Waste Facility" means the Processing facility designated by Collector pursuant to Exhibit "D", Approved Facilities List, subject to City’s right to disapprove the designation pursuant to that Section, for the Processing into Compost of Green Waste/Food Waste collected pursuant to this Agreement.

1.1.28. "Designated Recycling Facilities" means the Recycling Processing facility solely designated by Collector pursuant to Exhibit "D", Approved Facilities List. Additional
Recycling Processing Facilities not listed in Exhibit “D” shall be subject to City’s right to disapprove the designation pursuant to this Agreement.

1.1.29. “Disposal” shall mean the complete operation of treating and disposing of Solid Waste after the Collection thereof.


1.1.31. “Diversion Rate” will be calculated as the tons of materials collected by Collector from the provision of Collection Services that are sold, processed, or shipped to a recycler or re-user and net of any Residue amounts, as required by this Agreement, divided by the total tons of materials collected by Collector in each calendar year.

1.1.32. “Environmental Statutes” means, for the purposes of this Agreement, 42 U.S.C. Sections 6901, et seq. and Sections 9600, et seq., and California Health and Safety Code Sections 25300, et seq., or successor statutes.

1.1.33. “Food Waste” means vegetable and fruit matter, grain products and baked goods, egg shells, coffee grounds, meat, bones, fish, and other putrescible kitchen wastes. “Food Waste” does not include manure and pet wastes, dead animals, or rotten material.

1.1.34. “Green Waste” shall mean that Solid Waste consisting of leaves, grass clippings, brush, branches and other forms of organic materials generated from landscapes or gardens, separated from other Solid Waste.


1.1.36. “Green Waste/Food Waste Container” means a Container permitted to be used for the purpose of holding Green Waste/Food Waste for Collection.

1.1.37. “Gross Rate Revenues” means all Rate revenues collected by Collector for providing Collection Services, plus Recycling Revenues.

1.1.38. “Hazardous Waste” shall have the meaning set forth California Code of Regulations, Title 14 §17225.32 and Health and Safety Code §25117, or successor laws and regulations as may be amended from time to time.

1.1.39. “Holiday” shall mean: New Year’s Day, Independence Day, Thanksgiving Day and Christmas Day. “Holiday” shall also mean any other day recognized by resolution of the City Council or designated in this Collection Agreement.
1.1.40. "Household Hazardous Waste" shall have the meaning set forth in California Code of Regulations, Title 14 §18502, or successor laws and regulations as may be amended from time to time.

1.1.41. "Household Hazardous Waste Program" means the operation of the Household Hazardous Waste collection facility and provision of services pursuant to Section 3.14.

1.1.42. "In the City" or "Within the City" shall mean all of the territory within the corporate boundaries of the City as such boundaries exist on the effective date of the ordinance codified in this Chapter or may thereafter exist by virtue of annexation of territory to or detachment of territory from the boundaries of City.

1.1.43. "Landscaping Debris" shall mean Green Waste that does not fit into a Standard Residential Green Waste Container, and includes stumps or branches exceeding three (3) inches in diameter or three (3) feet in length.

1.1.44. "Medical and Infectious Waste" shall mean biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments.


1.1.46. "Mobile Home" shall have the meaning set forth in California Health and Safety Code §18200.

1.1.47. "Mobile Home Parks" means sites at which Mobile Home spaces are rented for residential use.

1.1.48. "Monthly Remittance" means the monthly payment made to City by Collector pursuant to Section 7.3.

1.1.49. "Multi-Family Residence" shall mean any building or structure, including but not limited to Mobile Home Parks, or portion thereof, used for residential purposes having greater than four (4) distinct living units.

1.1.50. "Municipal and Parks Parking Lots" means: public parking lots located at City Hall, Civic Center Complex (excluding library), Senior Center, City Community and neighborhood parks and any other public parking facility used primarily by the City that may be constructed, acquired or leased during the Term.
1.1.51. "Owner" means the Person holding the legal title or having a right to possession to the real property to which Collection Services are provided.

1.1.52. "Person" shall mean any individual, association, firm, partnership, corporation, organization, or any other group or combination thereof acting as a unit.

1.1.53. "Processing" shall mean the reduction, separation, recovery and conversion of Solid Waste.

1.1.54. "Public Agency" shall mean any governmental agency or department thereof, whether federal, state, or local.

1.1.55. "Rate Year" means each twelve (12) month period from January 1st to December 31st, beginning January 1, 2012.

1.1.56. "Rates" means the service charges and Special Charges for Collection Services billed and collected by Collector from each Subscriber receiving service under this Agreement.

1.1.57. "RCRA" means the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; as amended or superseded, and the regulations promulgated thereunder.

1.1.58. "Recyclables" means those materials, which are capable of being recycled and that would otherwise be processed or disposed of at landfill. Recyclables include those materials defined by the City, including newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; small scrap and cast aluminum (not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item); steel including “tin” cans, aerosol cans (empty, non-toxic products) and small scrap (not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item); bimetal containers; #1-7 plastics regardless of form or mold, including but not limited to plastic containers, bottles, wide mouth tubs, aluminum foil and pans; used motor oil and oil filters; chip board/grey board; dry cell household batteries and cell phones when contained in a sealed plastic bag; and those materials added by the Collector from time to time. Plastic bags, film plastic, rigid polystyrene, loose polystyrene used in packaging if they are contained in a closed bag, and aseptic containers will be included as markets and Processing is developed to support Diversion of these materials.

1.1.59. "Recyclables Container" shall mean a Container which is provided to Residential Premises for use in collecting and moving Recyclables to curbside for Collection by Collector, or a Container which is provided to Commercial/Industrial Premises for use by Collector in collecting and moving Recyclables.
1.1.60. "Recycling" shall mean the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become Solid Waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. "Recycling" does not include transformation as defined in Public Resources Code Section 40201.

1.1.61. "Recycling Revenues" means all revenues received by the Collector resulting from the sale of Recyclables collected through provision of Collection Services. Recycling Revenues also includes any reimbursements from the State for California Redemption Value materials, and any Department of Conservation reimbursement for curbside Recyclables Collection pursuant to Public Resources Code Section 14549.6(a).

1.1.62. "Related Party" means any other Person under the same ownership and/or Control as Republic Services, Inc.

1.1.63. "Residential Householder" shall mean any Person or Persons holding or occupying Residential Premises in the City, whether or not the Owner of the Residential Premises.

1.1.64. "Residential Premises" shall mean: (i) any building or structure, or portion thereof, that is used for residential housing purposes and has four (4) or fewer distinct living units; and (ii) any multiple unit residential complex which, with the prior written approval of the City Manager, receives Solid Waste, Recyclables, and Green Waste/Food Waste Collection services using Residential Solid Waste, Recycling, and Green Waste/Food Waste Containers.

1.1.65. "Residue" means materials that remain after Processing Recyclables and Green Waste/Food Waste, which cannot be Recycled, marketed, or otherwise utilized, including but not limited to materials such as rocks, contaminated paper, putrescible waste, and other debris.

1.1.66. "Schedule of Maximum Permissible Rates" means Exhibit "A".

1.1.67. "Small Quantity Generator (SQG)" as defined in Title 40 of the Code of Federal Regulations generate more than 100 kilograms, but less than 1,000 kilograms, of hazardous waste per month. Requirements for SQGs include:

- SQGs may accumulate hazardous waste on site for 180 days without a permit (or 270 days if shipping a distance greater than 200 miles).
- The quantity of hazardous on site waste must never exceed 6,000 kilograms.
- There must always be at least one employee available to respond to an emergency. This employee is the emergency coordinator responsible for coordinating all emergency
response measures. SQGs are not required to have detailed, written contingency plans.

1.1.68. "Solid Waste" shall mean all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes; discarded home appliances; dewatered, treated, or chemically fixed sewage sludge which is not a Hazardous Waste; manure, Green Waste, Food Waste, Mixed Waste, vegetable or animal solid and semisolid wastes; Special Wastes; and other discarded solid and semisolid wastes. "Solid Waste" does not include Hazardous Waste or Medical and Infectious Waste.

1.1.69. "Solid Waste, Recyclables, and Green Waste Collection Services" shall mean the Collection, storage, or transfer of Solid Waste.

1.1.70. "Solid Waste Container" shall mean any Container permitted to be used for the purpose of holding Solid Waste for Collection.


1.1.72. "Special Charges" means extra charges for certain special services for Residential and Commercial/Industrial Subscribers that are do not exceed the amounts set forth in the Schedule of Maximum Permissible Rates, and that may be billed by Collector.

1.1.73. "Special Items" shall mean any bulky or heavy objects that require Bin service and are not Bulky Waste, including, but not limited to, dirt, sod, brick, manure, waste from any poultry yard or stable, and Construction and Demolition Waste.

1.1.74. "Special Rate Review" means the Rate adjustment process described in Section 6.3 of this Agreement.

1.1.75. "Special Wastes" include flammable waste; waste transported in a bulk tanker; liquid waste; sewage sludge; pollution control process waste; Residue and debris from the cleanup of a spill or release of chemical substances or any other Special Wastes; contaminated soil, waste, Residue, debris and articles from the cleanup of a site or facility formerly used for the generation, storage, treatment, Recycling, reclamation, or Disposal of any other Special Wastes; dead animals; waste water; explosive substances; radioactive substances; industrial appliances; and abandoned vehicles and parts thereof.

1.1.76. "State" means the State of California.

1.1.77. "Street Sweeping Fines" means material collected as a result of street sweeping operations.
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1.1.78. "Subscriber" means an individual or entity that subscribes to Collection Services provided by Collector pursuant to this Agreement.

1.1.79. "Substantial Evidence" means such evidence as would convince a reasonable Person and on which reasonable Persons may not reasonably differ as to the conclusion to be drawn from such evidence.

1.1.80. "Term" means the term of this Agreement, as set forth in Section 2.4.

1.1.81. "Tipping Fee" means the fee charged by a Disposal or Processing facility to dispose or process one (1) Ton of municipal Solid Waste, not including any charges for Special Wastes, Bulky Waste, or Special Items.

1.1.82. "Ton" means a "short ton" of 2,000 pounds.

1.1.83. "2001 Agreement" has the meaning set forth in Recital "D."

ARTICLE 2. PARTIES; EXCLUSIVE RIGHTS; TERM OF AGREEMENT

2.1. PARTIES TO THE AGREEMENT.

The parties to this Agreement are:

2.1.1. City: The City of Fairfield, a municipal corporation, having its principal office at 1000 Webster Street, Fairfield, California 94533.


2.2. REPRESENTATIVES OF PARTIES AND SERVICE OF NOTICES

The representatives of the parties who are primarily responsible for the administration of this Agreement, and to whom formal notices, demands and communications shall be given, are as follows:

2.2.1. The principal representative of City shall be:

Mr. Sean Quinn, City Manager
1000 Webster Street
Fairfield, California 94533
Telephone No.: (707) 428-7400
Fax No.: (707) 428-7798
2.2.2. The principal representative of Collector shall be:

Michael Caprio, Area President
Republic Services
3260 Blume Drive Suite 200
Richmond, California 94806
Telephone No.: (707) 262-7566

2.2.3. Formal notices, demands, and communications to be given hereunder by either party shall be made in writing, and shall be personally delivered or sent by registered or certified mail, postage pre-paid, return receipt requested, or by Federal Express or other courier service which provides a written receipt of delivery, or delivered or sent by facsimile transmission, to the addresses set forth in this Section 2.2. The notices or other communications shall be deemed received and effective upon: (i) if personally delivered, the date of delivery to the address of the Person to receive such notice; (ii) if mailed, the date of delivery or refusal to accept delivery indicated in the certified or registered mail receipt; or (iii) if given by courier service, on the date of delivery evidenced by the receipt for delivery provided by the courier service; or (iv) if faxed, when sent. Any notice, request, demand, direction or other communication sent by fax must be confirmed within forty-eight (48) hours by letter mailed or delivered in accordance with the foregoing.

2.2.4. If the name of the principal representative designated to receive the notices, demands, or communications, or the address of such Person, is changed, written notice shall be given to the other party within five (5) working days of the change.

2.3. **GRANT OF EXCLUSIVE RIGHTS; CERTAIN NON-EXCLUSIVE RIGHTS**

2.3.1. Subject to the terms and conditions of this Agreement and Applicable Law, City hereby grants and issues to Collector the exclusive authority, right and privilege to collect, transport, process, and dispose of all Solid Waste, Recyclables, Mixed Waste, and Green Waste/Food Waste, other than Construction and Demolition Waste, generated or accumulated at all Residential and Commercial/Industrial Premises within the City, for the Term unless earlier terminated as provided herein. Collector’s exclusive rights hereunder shall be subject to the rights of State, county and school district facilities to use a Solid Waste Enterprise other than Collector.

2.3.2. Nothing herein limits or excludes Collector from applying for a Construction and Demolition collection agreement.

2.3.3. Limitations to Scope of Exclusive Agreement.
(a) Notwithstanding the provisions of Section 2.3.1, Collector shall not have the exclusive right to collect any Solid Waste, Recyclables, and Green Waste/Food Waste that is removed from the premises that generated such Solid Waste, Recyclables, and Green Waste/Food Waste pursuant to one or more of the exclusions in Article V of Chapter 9 of the Fairfield Municipal Code, as it now exists or may subsequently be amended.

2.3.4. Collector accepts the terms of this Agreement as defining the scope of its exclusive rights to provide Solid Waste, Recyclables, and Green Waste/Food Waste Collection, Processing, and Disposal services in the City, and this Agreement supersedes all prior franchise rights and prior agreements, including but not limited to the 2001 Agreement, except as set forth in subsection 2.5. Collector waives any right or claim to provide Solid Waste, Recyclables, and Green Waste/Food Waste Collection, Processing, and Disposal services in the City under any prior grant of franchise, contract, license or permit, including but not limited to the 2001 Agreement (except as set forth in subsection 2.5), and any right under Section 49520, et seq. of the Public Resources Code. THIS PROVISION SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

2.3.5. As a material inducement to City to enter into this Agreement, Collector hereby waives any right it may possess to contest the legal right, power or the authority of City to enter into and perform this Agreement, or any provision hereof, and agrees to cooperate with and assist City in supporting the legal validity of and authorization for such provisions in the event of any legal challenge thereto brought or made in any manner by a third party.

2.4. TERM OF AGREEMENT AND COMMENCEMENT DATE

2.4.1. The term ("Term") of this Agreement shall commence upon the satisfaction or waiver of the conditions precedent set forth in subsection 2.4.3, and shall expire midnight on November 30, 2017, being five (5) years (15) days after the date the 2001 Agreement would have expired absent this Agreement. Notwithstanding the foregoing, the unexcused failure or refusal of Collector to perform any material term, covenant, obligation or condition contained in this Agreement shall give rise to the right, in favor of City, to terminate this Agreement for cause in accordance with the procedures elsewhere contained herein. Upon the termination of this Agreement (for any reason other than a failure of condition precedent pursuant to subsections 2.4.3 or 2.4.4) or expiration of the Term, the waiver set forth in subsection 2.3.4, the indemnity provisions set forth in Section 5.1, and any other provision which is expressly stated to survive the Term, shall remain in full force and effect.

2.4.2. Collector Option to Extend. By April 1, 2016, provided the City determines that none of the following two (2) events have occurred the City shall be obligated to offer the Collector in writing a five (5) year extension of the Term of this Agreement:
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(a) Collector has failed to resolve, after written notice to Collector and an opportunity to cure, an alleged failure to meet and maintain the performance standards set forth in Exhibit "B" of this Agreement.

(b) Collector has failed to pay Liquidated Damages assessed pursuant to Section 11.4.

The Collector shall provide written notice to the City as to whether Collector accepts or rejects the City’s offer to extend this Agreement on the same terms and conditions, within twenty (20) working days of the date of the offer. If Collector fails to deliver a written acceptance of the City’s offer to the City within twenty (20) working days, the City’s offer shall be deemed withdrawn and the City shall have no obligation to extend the Term of this Agreement beyond September 30, 2017. If the Term of this Agreement is extended, the compensation provisions of Article 7 shall not be subject to negotiation. However, the compensation payable to Collector shall be adjusted annually throughout the extended Term as provided in Article 6.

2.4.3. This Agreement shall not become effective and City shall not be obligated to perform the undertakings provided for in this Agreement unless and until each and all of the conditions set out below are satisfied, or waived in writing by City. Waiver of any of the following as a condition to the effectiveness of this Agreement will not preclude City from pursuing any claim for breach of this Agreement. In the sole and absolute discretion of the City Manager, this Agreement shall expire and be of no further force or effect, without the need for notice pursuant to Section 11.1, if the conditions precedent set forth below are not satisfied on or before October 1, 2011:

(a) The representations and warranties made by Collector in Section 2.5 of this Agreement are true and correct.

(b) Collector shall submit, to the satisfaction of the City Manager: (i) endorsements of insurance coverage pursuant to Section 5.2; and (ii) the faithful performance bond pursuant to Section 5.3 of this Agreement.

(c) Collector shall pay to City an amount not to exceed $60,000 to defray consultant and legal expenses incurred by City in the negotiation and drafting of this Agreement.

(d) Collector shall deliver to City evidence satisfactory to the City Manager that Collector has the authority to provide, or has arranged for, the Disposal and Processing rights at Designated Disposal Site, Designated Green Waste/Food Waste Facility, and Designated Recycling Facility set forth in Exhibit "D".

2.4.4. In the sole and absolute discretion of the City Manager, this Agreement shall expire and be of no further force or effect, without the need for notice pursuant to Section 11.1, if
Collector fails to deliver to the City Manager evidence satisfactory to the City Manager that Collector has the authority to provide, or has arranged for, the Processing rights at the Designated Green Waste/Food Waste Facility and Designated Recycling Facility set forth in Exhibit “D”, on or before October 1, 2011.

2.5. TERMINATION OF 2001 AGREEMENT

The 2001 Agreement shall remain in effect, and Collector shall continue to collect Solid Waste, Recyclables, and Green Waste/Food Waste in the City pursuant to the 2001 Agreement, until the Commencement Date. Notwithstanding any other provision of this Agreement or the 2001 Agreement, upon the Commencement Date, or upon the earlier termination of this Agreement by City or Collector, including but not limited to termination for Collector’s failure to satisfy the conditions precedent set forth in subsections 2.4.3 or 2.4.4 on or before the dates specified therein, the 2001 Agreement shall automatically expire and be of no further force or effect, except that: (a) any provisions of the 2001 Agreement in favor of City which expressly state that they shall survive expiration of the Term or termination of the 2001 Agreement shall survive; and (b) any remittances owed by either Party to the other pursuant to the 2001 Agreement shall remain due and payable. Notwithstanding the foregoing, the 2001 Agreement shall not be terminated by this Section 2.5 if this Agreement is terminated as a result of litigation challenging the award of this Agreement.

2.6. REPRESENTATIONS AND WARRANTIES OF COLLECTOR

Collector hereby covenants, represents, and warrants the following to City for the purpose of inducing City to enter into this Agreement and to consummate the transaction contemplated hereby, all of which shall be true as of the date of this Agreement and as of the Commencement Date:

(a) Collector is duly organized and validly existing as a corporation under the laws of the State of Delaware, with full legal right and power to enter into and perform its obligations under this Agreement.

(b) Solano Garbage Company is duly organized and validly existing as a corporation under the laws of the State of California, with full legal right and power to enter into and perform its obligations under this Agreement.

(c) Solano Garbage Company is wholly owned by Republic Services, Inc.

(d) Collector has the authority to enter into and perform its obligations under this Agreement. Collector or its authorized representative has taken all actions required by law and its governing documents to authorize the execution of this Agreement. The Persons signing
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this Agreement on behalf of Collector warrant and represent that they have authority to do so. This Agreement constitutes the legal, valid and binding obligation of Collector.

(e) Neither the execution of this Agreement nor the delivery by Collector of Collection Services nor the performance by Collector of its obligations hereunder: (1) conflicts with, violates or results in a breach of Applicable Law; (2) conflicts with, violates or results in a breach of any Term or condition of any judgment, decree, agreement (including, without limitation, the certificate of incorporation of Collector) or instrument to which Collector is a party or by which Collector or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument; or (3) will result in the creation or imposition of any encumbrance of any nature whatsoever upon any of the properties or assets of Collector.

(f) There is no action, suit or other proceeding as of the date of this Agreement, at law or in equity, or to the best of Collector’s knowledge, any investigation, before or by any court or governmental authority, pending or threatened against Collector which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the validity or enforceability of this Agreement or any such agreement or instrument entered into by Collector in connection with the transactions contemplated hereby, or which could materially and adversely affect the ability of Collector to perform its obligations hereunder or which would have a material adverse effect on the financial condition of Collector.

(g) Collector has no knowledge of any Applicable Law in effect as of the date of this Agreement that would prohibit the performance by Collector of this Agreement and the transactions contemplated hereby.

(h) Collector has made an independent investigation, satisfactory to it, of the conditions and circumstances surrounding this Agreement and the work to be performed by it, and is satisfied that those conditions and circumstances will not impair its ability to perform the work and provide the Collection Services required by this Agreement.

(i) The information supplied by Collector in all submittals made in connection with negotiation and execution of this Agreement, including all materials in Exhibits of this Agreement, and all representations and warranties made by Collector throughout this Agreement are true, accurate, correct and complete in all material respects on and as of the Commencement Date of this Agreement.

(j) Collector’s representative, designated in subsection 2.2.2, shall have authority in all daily operational matters related to this Agreement. City may rely upon action taken by such designated representative as action of Collector unless the actions taken are not within the scope of this Agreement.
ARTICLE 3. SCOPE OF SERVICES

3.1. GENERAL

Collector shall collect all Solid Waste (including Green Waste/Food Waste) and Recyclables generated and presented for Collection at each Residential and Commercial/Industrial Premises and provide street sweeping services throughout the City, in conformity with the provisions of this Agreement, including but not limited to the performance standards set forth in Exhibit “B”. The work to be done by Collector pursuant to this Agreement shall include the furnishing of all labor, supervision, vehicles, Containers, other equipment, materials, supplies, and all other items necessary to perform the Collection Services, and the payment of all related expenses including, but not limited to, all taxes and utility charges. The Collection Services shall be performed in a thorough and professional manner that constitutes litter free, reliable, courteous and high-quality service. Collector shall at all times perform its duties using best industry practices for comparable operations.

3.2. COMPLIANCE WITH APPLICABLE LAW

3.2.1. Collector shall acquire and maintain all necessary permits and licenses, and shall comply with all provisions of this Agreement, the City Code (including but not limited to Chapter 9 of the City Code, which is incorporated herein by this reference), state and federal mandates, and all other Applicable Law, rules, and implementing regulations, as they may from time to time be amended, including, but not limited to the Act, CERCLA, and RCRA.

3.2.2. Collector agrees to observe and comply with the operating rules and regulations established by the applicable county and the State regarding the Designated Disposal Site, Designated Recycling Facilities, and the Designated Green Waste/Food Waste Facility, including without limitation those governing delivery procedures, receiving hours, vehicle and waste inspection, Hazardous Waste screening, litter control and safety measures.

3.3. COLLECTION FROM RESIDENTIAL PREMISES

3.3.1. Collector shall furnish all labor, supervision, materials, permits, licenses, and equipment necessary to provide automated Collection of Solid Waste, Green Waste and Food Waste (collectively, “Green Waste/Food Waste”), and Recyclables from all Residential Premises in the City from the curb on a weekly basis, except in areas where access for automated Collection is not practicable. In those areas such as alleys and narrow streets, semi-automated or manual Collection Services shall be provided.

3.3.2. Curbside Collection of Recyclables, and Green Waste/Food Waste shall be performed weekly, on the same day as Solid Waste Collection.
3.3.3. At the first regularly scheduled Collection after Christmas Day, Subscribers may use Green Waste/Food Waste Containers for Solid Waste Disposal and Collector shall collect and dispose of the materials in the Green Waste/Food Waste Container as Solid Waste. Collector shall not charge any additional fees for this additional Solid Waste Collection.

3.3.4. In addition to the additional Solid Waste Collection provided for in subsection 3.3.3, Subscribers may have one extra Solid Waste Collection day per calendar year, upon 48 hour's notice to Collector. Collector shall not charge any additional fees for this additional Solid Waste Collection.

3.4. CONTAINERS FOR RESIDENTIAL PREMISES

3.4.1. (a) Collector shall provide Containers and any replacement Containers to all Residential Premises. Each dwelling unit in a Residential Premises shall receive one (1) standard residential Solid Waste Container having an approximate capacity of either 32, 64 or 96 gallons, one (1) standard residential Recycling Container having an approximate capacity of either 32 or 64 gallons, and one (1) standard residential Green Waste/Food Waste Container having an approximate capacity of either 64 or 96 gallons, all as specified by the Residential Householder.

(b) All Containers provided by Collector shall be constructed of rigid, durable materials with a minimum five (5) year life expectancy warranted by the manufacturer. The color of the Containers shall be subject to the approval of the City Manager. Collector shall not place any labels or embossments on the Residential Containers without prior approval by the City Manager.

3.4.2. (a) Collector shall permit Residential Householders to change the size of their Solid Waste, Recycling, and Green Waste/Food Waste Containers at any time, once per year for each Container, at no additional charge. Collector shall be permitted to charge a fee that does not exceed the maximum permissible fee set forth in the Schedule of Maximum Permissible Rates for any change in the size of the Solid Waste, Recycling, and Green Waste/Food Waste Containers in excess of once per year. Collector shall deliver the Containers associated with requested changes in service level no later than two (2) weeks after receipt of the request.

(b) Collector shall provide additional Solid Waste, Recycling and Green Waste/Food Waste Containers to any unit in a Residential Premises upon request from the Residential Householder. Collector shall in no event be obligated to provide additional Recycling or Green Waste/Food Waste Containers, however, unless the Residential Householder shall, as a condition, actually utilize on a regular basis all of the capacity of a 64 gallon Recycling Container or a 96 Gallon Green Waste/Food Waste Container, respectively. Additional Containers shall be delivered and serviced for an
amount that does not exceed that specified in the Schedule of Maximum Permissible Rates. Collector shall deliver the requested additional Containers no later than two (2) weeks after receipt of the request.

3.4.3. (a) Repairs to Containers for damage caused by ordinary wear and tear by the Residential Householder or by Collector shall be the responsibility of Collector. These repairs include replacement of wheels, lids, hinges, axles, and handles. Collector shall have the right to charge Residential Householder for Containers lost or damaged through willful or intentional abuse or misuse.

(b) In the event delivered Residential Containers are lost, stolen, damaged or destroyed, not through the willful or intentional abuse or misuse of the Residential Householder, Collector shall deliver to the Residential Householder a replacement Container(s) within one week of request at no charge to the Residential Householder or City for either the Container or its delivery.

3.4.4. Collector shall report to the City periodically, but not less than semi-annually, the number of Containers replaced and address of each residence where replacement occurred in accordance with the previous paragraph.

3.5. WHEEL-OUT SERVICE

3.5.1. Collector shall provide free wheel-out service to eligible residents. For purposes of this Section 3.5, “eligible residents” are those who: (1) are physically unable to move the Containers as verified by a medical certificate; and (2) annually sign a sworn statement that they live in a residence with no other residents capable of moving Containers. The City Manager shall make the final determination of whether or not a household is eligible for free wheel-out service.

3.5.2. Collector shall provide wheel-out service for any non-eligible resident requesting such service on a for-fee basis. Service shall be provided for a Rate that does not exceed the maximum permissible Rate specified in the Schedule of Maximum Permissible Rates.

3.6. RESIDENTIAL AND MULTI-FAMILY BULKY WASTE COLLECTION

3.6.1. Each unit in a Residential Premises, and each unit in a Multi-Family Residence, shall be entitled to two (2) on-call pick-ups per year of up to three (3) cubic yards of Solid Waste and two (2) items of Bulky Waste per each pick-up. Collector shall provide this service at no additional charge to the Subscriber or City. Notwithstanding, Collector may charge for Freon removal from Freon-containing appliances in an amount that does not exceed that set forth in the Schedule of Maximum Permissible Rates.
3.6.2. Collector shall provide additional (beyond that set forth in subsection 3.6.1) on-call pick-up service upon request, and may charge a fee for such service in an amount that does not exceed that specified in the Schedule of Maximum Permissible Rates.

3.6.3. Collector shall ensure that all pick-up service requests pursuant to subsections 3.6.1 or 3.6.2 are made with seven (7) days of the request. For the free pick-ups provided to Multi-Family Residences pursuant to subsection 3.6.1, however, Collector may require that the pick-ups occur from all units in the Multi-Family Residence on the same day. In that event, the on-call day shall be negotiated between Collector and the property Owner or manager.

3.6.4. Collector shall transport collected materials that cannot otherwise be recycled to the Designated Disposal Site and be responsible for payment of any associated Tipping Fees. Collector shall make good faith efforts to maximize the Recycling of collected materials.

3.6.5. Collector shall provide one coupon to each unit in a Residential Premises annually for Disposal at the Designated Disposal Site of up to two (2) cubic yards of Solid Waste and one Bulky Waste item at no charge. No charge shall be levied for the removal of Freon from Freon-containing devices delivered to the Designated Disposal Site pursuant to the coupon. In addition, Collector shall provide 200 coupons to the City Manager annually for distribution by the City Manager in his or her sole discretion, at no charge to the City.

3.7. **HOLIDAY TREE RECYCLING**

Collector shall collect, transport and process as Green Waste all acceptable trees from all Residential Premises and Multi-Family Residences within the City which are placed for Collection on the first three regularly scheduled Collection days after December 25 for each Collection route, at no additional compensation to Collector or charge to the Subscriber or City. Notwithstanding the above, Collector shall incorporate local non-profit organizations in the provision of holiday tree Collection services, where such organizations have expressed interest in writing to City or Collector. In such cases, Collector shall be responsible for maintaining the service standards specified in this Section, except that Collection may be at reasonable times and dates prior to January 15th of the following calendar year. For purposes of this Section 3.7, "acceptable holiday trees" means trees that are acceptable for Processing as Green Waste pursuant to subsection 3.17.3 (i.e., no "flocked" trees, or trees with material amounts of tinsel). Collector shall have no obligation to collect trees or portions of trees that are greater than six (6) feet in length.

3.8. **COMMERCIAL/MULTI-FAMILY/INDUSTRIAL SERVICE**

3.8.1. Collection. Collector shall furnish all labor, supervision, materials, permits, licenses, and equipment necessary to provide Collection of Solid Waste, Recyclables, and Green
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Waste/Food Waste from Commercial/Multi-Family/Industrial Premises in the City on at least a weekly basis. Collector will assist the Owners of Commercial/Multi-Family/Industrial Premises in selecting an appropriate level of service for Solid Waste, Recyclables, and Green Waste/Food Waste. Collector shall be responsible for billing each Commercial/Multi-Family/Industrial Premises in an amount that does not exceed that specified in the Schedule of Maximum Permissible Rates. Collector shall work with Commercial/Multi-Family/Industrial Premises Subscribers to select the appropriate size, type and number of Containers to be provided for Solid Waste, Recyclables, and Green Waste/Food Waste Collection Services.

3.8.2. Commercial Recycling. Collector shall provide Recyclables Collection service available to all Commercial/Multi-Family/Industrial Premises in the City. In coordination and cooperation with City efforts, Collector shall promote and expand the use of Recycling services to all Commercial/Multi-Family/Industrial Premises.

3.8.3. Commercial Green Waste and Food Waste Service. Collector shall identify and implement Green Waste and Food Waste Collection service at Commercial/Multi-Family/Industrial Premises, either co-mingled or not, where feasible.

3.8.4. Waste Stream Assessment. Collector shall provide on-site waste stream assessments to Commercial/Multi-Family/Industrial Premises for the purposes of assisting premises in identifying and implementing waste reduction practices and Recycling and Green Waste and Food Waste Collection service. Assessments shall be executed such that no less than 20 percent of total Commercial/Multi-Family/Industrial Premises receive an assessment each year. Collector shall establish a program to ensure that new Commercial/Multi-Family/Industrial Premises entering the City shall receive the waste stream assessment in the quarterly reports.

3.9. TRAVIS AIR FORCE BASE

3.9.1. Collector shall furnish all labor, supervision, materials, permits, licenses, and equipment necessary to provide Collection of Solid Waste, Green Waste/Food Waste and Recyclables from Travis Air Force Base in accordance with Sections 3.1 through 3.8, as appropriate, and conforming to the operational standards set forth in that certain Agreement between Collector and Travis Air Force Base dated May 1, 2010, as it now exists or may subsequently be amended (the “Travis Agreement”).

3.9.2. Collector shall participate in a good faith manner in discussions, including quarterly meetings and other communication, with City and Travis Air Force Base representatives to improve, where possible, on-base service level and cost effectiveness.

3.9.3. Quality Control. The Collector shall develop and maintain a quality program to ensure Collection services are performed in accordance with commonly accepted commercial
practices. The Collector shall develop and implement procedures to identify, prevent, and ensure non-recurrence of defective services. At a minimum the Collector shall develop quality control procedures consistent with the Travis Agreement as it now exists or may subsequently be amended. The Collector shall provide an electronic and written detailed quality control plan and monthly quality control reports/inspections to the QAE/COR no later than the 5th day of the month.

3.9.4. Equipment Maintenance. Maintenance and repair inspections shall be done in accordance with the procedures consistent with the Travis Agreement.

3.10. PUBLIC SCHOOL FACILITIES

3.10.1. Collector shall Collect, and deliver for Disposal or Processing all Solid Waste (including Green Waste) and Recyclables from all public school facilities and administrative offices ("School Facilities") of the Fairfield-Suisun Unified School District and Travis Unified School District (the "School Districts") that are located within the City. Collector shall provide each School Facility with sufficient Bins and other Containers for the Collection of Solid Waste, Green Waste and Recyclables. Collector shall assist each School Facility with selecting the Container type and size, and Collection frequency that best meets each School Facility’s needs.

3.10.2. All services provided pursuant to this Section shall be provided at Collector’s expense, with no charge to City or the School Districts, provided that the School Facilities achieve an annual 33.3% Diversion Rate. Diversion rates shall be measured either on a site-by-site case or district wide basis to be determined by City.

3.10.3. If less than a 33.3% Diversion Rate is achieved, Collector may charge either the individual school or district, as determined by the City, three (3) times the percent by which the school or district falls short of the 33.3%. The Rate to be charged shall not exceed the current maximum permissible Rates for Commercial/Industrial Premises Rates that may be charged for Solid Waste service.

3.10.4. Collector shall identify and implement Green Waste/Food Waste Collection service at School Facilities, where feasible.

3.11. CITY FACILITIES

3.11.1. Collector shall collect and deliver for Disposal or Processing all Solid Waste, Green Waste/Food Waste and Recyclables from all City Facilities, including but not limited to the Collection of Street Sweeping Fines. Collector shall provide each City Facility with sufficient Containers, as determined by the City Manager, for the Collection of Solid Waste, Green Waste/Food Waste and Recyclables. Collector shall provide separate Containers for Green Waste/Food Waste at all public parks.
3.11.2. Collector shall provide for the Disposal or Diversion of all Solid Waste generated by City projects, and water treatment facility sludge delivered to the Designated Disposal Site, whether by Collector, City employees in City vehicles or by designated agents of City, which is consistent with the permit limitations of the Designated Disposal Site. Collector shall provide for the Diversion of all water treatment facility sludge with a moisture content of between ten (10) and fifty (50) percent.

3.11.3. Collector shall not charge City for the Collection, Disposal, or Processing of source-separated Construction and Demolition Waste generated by City projects. The Collector may charge City for Processing of any City generated Construction and Demolition Waste that is not source-separated. City has no obligation to deliver Construction and Demolition Waste from City projects and other City sources to the Designated Disposal Site, except for that which is collected by Collector.

3.11.4. Except as provided in subsection 3.11.3, all services provided pursuant to this Section shall be provided at Collector’s expense, with no charge to City. The City Manager may delete or add a City Facility from the list of facilities to be provided Collection Services by Collector pursuant to this Section at any time, upon written notice to Collector.

3.12. CALIFORNIA REDEMPTION VALUE COUPON PROGRAM

3.12.1. Collector shall provide at no additional compensation the California Redemption Value Recycling rebate program (“CRV Program”) to participating households. This service shall be provided until December 31, 2011, and as of January 1, 2012 the Collector will no longer be obligated to provide this program. Under the CRV Program, residents qualify for a coupon good for a reduction in the monthly service fee, if the resident returns beverage containers with a specified CRV value in a one calendar month period to Collector’s redemption center for Recycling. If the resident returns the specified minimum value of CRV beverage containers, the resident shall be paid for the CRV value and be given a coupon. However, each resident may only redeem one coupon per month.

3.12.2. The coupon value shall be $2.92, and the minimum value of the CRV beverage containers to qualify for a coupon shall be $7.62.

3.12.3. Collector shall provide a conveniently located State-certified redemption center in the City for, at a minimum, California Redemption Value materials.

3.13. DEAD ANIMAL COLLECTION

Upon request from the City Manager and at no additional cost to City, Collector shall provide for the Collection and Disposal of domesticated animals found dead on public property,
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including but not limited to City streets and rights of way, so long as such animals may be disposed of at the Designated Disposal Site.

3.14. HOUSEHOLD HAZARDOUS WASTE PROGRAM

3.14.1. Collector shall provide a permanent Household Hazardous Waste Collection Facility (as defined in California Code of Regulations, Title 14, Section 18502 (a)(20)) located within the City limits for the acceptance of all types of Household Hazardous Waste types from Residential Premises, Multi-Family Residences and businesses that qualify as Small Quality Generators (SQG) as defined by Title 40 of the Code of Federal Regulations. The facility shall be available to City residents at least two (2) days per month. This service is to be provided to residents and businesses with no additional compensation to Collector. SQG shall not exceed the current maximum permissible Rates outlined in Exhibit “A”. Examples of Household Hazardous Waste include, but are not limited to, pesticides, herbicides, pool chemicals, household solvents and acids, contaminated used motor oil, and oil-based paint. The operation of the facility shall follow the General Parameters set forth in Exhibit “C” and shall comply with all Applicable Law. Collector shall operate a Household Hazardous Waste Collection Facility and Program that is fully permitted during the Term of this Agreement.

3.14.2. Collector shall provide, at no additional compensation, a “Batteries, Oil, Paint, Anti-Freeze” Collection Facility (“BOPA”) in the City for the Disposal of batteries, oil, oil filters, latex paint and antifreeze by City residents. The BOPA facility shall be available to City residents six days a week.

3.14.3. Collector shall provide, at no additional compensation, weekly used motor oil curbside Collection on regular Collection days from all Residential Premises.

3.14.4. City shall contribute funding towards Household Hazardous Waste Program costs not to exceed 50 percent of program costs. Maximum annual contribution shall not exceed $40,000, starting in 2012, and a 2.5 percent inflator for inflation will be added annually. In the event that the City is unable to contribute funding toward the Household Hazardous Waste Program cost, the City and Collector shall negotiate changes to the program consistent with available funding. Collector shall submit an invoice to the City with itemized program costs with breakdown of materials collected and number of participants.

3.15. HAZARDOUS WASTE NOTIFICATIONS AND PROCEDURES

3.15.1. Except for the Household Hazardous Waste Collection Program described in Section 3.14, the Collection, transportation and Disposal of Hazardous Waste is specifically beyond the scope of this Agreement. Collector and City shall take all reasonable steps necessary...
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to prevent Hazardous Waste from being collected, transported, or disposed of by Collector under this Agreement, other than Household Hazardous Waste collected pursuant to Section 3.14.

3.15.2. Collector shall not be required to filter through and thoroughly inspect the Solid Waste or Recyclables deposited in Containers in order to ensure it does not contain any Hazardous Waste. Collector shall nonetheless take all reasonable steps to avoid collecting Hazardous Waste. Collector shall “tag” each Container which contains Hazardous Waste, and shall keep a record of all Subscribers who have received a tag for depositing Hazardous Waste items, in accordance with the procedures set forth in Exhibit “B” regarding tagging items not collected.

3.15.3. Collector shall provide written information regarding Household and other Hazardous Waste to all Subscribers upon initially beginning service and on a yearly basis thereafter. This information shall specify what types of waste may and may not be disposed of through routine Collection procedures, the availability of the Household Hazardous Waste Collection Program described in Section 3.14, the tagging procedure if Hazardous Waste is found in the Subscriber’s deposited waste, and other pertinent information.

3.15.4. Collector shall conduct yearly training programs for its waste Collection employees who provide Collection Services in the City, to instruct them in determining what is Hazardous Waste, to advise them to be aware of and locate, if possible, Hazardous Waste items when undertaking their Collection of Solid Waste, Recyclables, and Green Waste/Food Waste in the City, to follow proper procedures by tagging Hazardous Waste items as “Hazardous Special Handling Required”, and to advise Subscribers of the various legal alternatives for the Disposal of Hazardous Waste.

3.15.5. Collector shall notify all agencies with jurisdiction, including the California Department of Toxic Substances Control and Local Emergency Response Providers, and if appropriate, the National Response Center, of reportable quantities of Hazardous Waste, found or observed by Collector anywhere within the City, including on, in, under or about City owned property and City waste Containers. In addition to other required notifications, if Collector observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Waste unlawfully disposed of or released on City owned property, including but not limited to streets in the City, storm drains, or public rights of way, Collector also shall immediately notify the City Manager and the Solano County Department of Environmental Management.
3.16.  STREET SWEEPING SERVICES

3.16.1. Street Sweeping Services. Beginning January 1, 2012, and continuing until the expiration or termination of this Agreement, Collector shall provide street sweeping services in accordance with the terms and conditions of this Agreement.

3.16.2. Manner of Service. Collector shall provide a complete sweep of all curb miles on all publicly maintained City streets. Within any curb mile, Collector shall be responsible for sweeping all curbs including median islands and the corners from any cross street intersecting the subject street. Collector shall obey all laws governing the operation of the sweepers on a public street, and shall perform its operations so that sweepers are traversing their routes in the normal direction of traffic.

3.16.3. Water. Collector shall obtain water from City owned hydrants for the water necessary in the street sweeping operation, and report the estimated total gallons used per month to the City Manager. The proper volume and pressure shall be supplied by the sweeper at all times for adequate dust control during the sweeping operation. Where feasible, Collector shall use reclaimed or recycled water.

3.16.4. Sweeper Speed. Collector shall operate the sweepers at a speed of not more than six (6) miles per hour when sweeping or when the sweeper brooms are down, unless the sweeper manufacturer’s recommendation on the optimum speed of sweepers is greater than six (6) miles per hour.

3.16.5. Width of Sweeper Path. Collector shall sweep a full path, with all brooms down, unless parked vehicles, structures, or other objects prohibit the safe sweeping of the full path width. The path shall begin at the face of the curb, and include the flow line of the gutter. Unless blocked by parked cars, Solid Waste Carts, Recycling Carts, or Green Waste/Food Waste Carts the face of the curb and gutter shall always be included within the sweeper path. On those residential streets with no curb, the width of the sweeper path shall be measured from the edge of the pavement toward the center of the street.

3.16.6. Frequency and Day of Service.

(a) Residential Streets. Collector shall provide street sweeping service for each curb mile of residential streets and the 36 alleys in the City once monthly on a scheduled route basis. However, in those instances where the scheduled street sweeping service day falls on a Collector Holiday, Collector shall adjust the route schedule as set forth in Exhibit “G”.

(b) Residential Streets - Leaf Season. Between the dates of November 1 – January 15 of each year, the residential streets must be swept on either a bi-weekly or weekly basis to clean leaves from these streets, as shown on Exhibit “G”. This 2 ½ months of leaf season
sweeping frequency is an estimation and could occur earlier or even later. If the streets are clean from major accumulation of leaves, upon request, the City Manager may give the Collector approval to resume the normal street sweeping schedule for residential streets as set forth in Exhibit “G”.

(c) Major Arterial and Downtown Streets. Collector shall provide street sweeping service for each curb mile of major arterial streets in the City on a scheduled route basis as shown on Exhibit “G”. However, in those instances where the scheduled street sweeping service day falls on a Holiday, Collector shall adjust the route schedule as set forth in Exhibit “G”.

(d) Civic Center and Community Park Parking Lots. Collector shall provide street sweeping service for the City Hall Parking Lots (3) and the Senior Center Parking Lot once weekly on a scheduled route basis. The parking lots at both Laurel Creek and Allan Witt Community Parks shall be swept once every two weeks. However, in those instances where the scheduled street sweeping service day falls on a Holiday, Collector shall adjust the route schedule as set forth in Exhibit “G”.

(e) Municipal and Parks Parking Lots. Collector shall provide street sweeping service for the 11 municipal parking lots shown on Exhibit “G” on a monthly scheduled route basis. Parks parking lots shall be swept on the same day of the month that routine sweeping of the adjoining residential neighborhood takes place. However, in those instances where the scheduled street sweeping service day falls on a Holiday, Collector shall adjust the route schedule as set forth in Exhibit “G”.

3.16.7. Hours of Service.

(a) Residential Streets and Parks Parking Lots. Collector shall provide street sweeping service on residential streets, alleys and parks parking lots commencing no earlier than 7:00 a.m. and terminating no later than 5:00 p.m., Monday through Friday with no service on Saturday (except for Holiday service as set forth in Exhibit “G” of this Agreement in which case normal Collection hours may be utilized) or Sunday. The hours, days, or both of service may be extended due to extraordinary circumstances or conditions with the prior verbal consent of the City Manager. Sweeping in residential areas shall be coordinated with Collection Services to ensure that sweeping occurs after Collection of all Carts has been completed on a specific street.

(b) Major Arterial Streets. Collector shall provide street sweeping service on major arterial streets commencing no earlier than 8:00 p.m. and terminating no later than 6:00 a.m., Sunday through Thursday with no service on Friday and Saturday (except for Holiday service as set forth in Exhibit “G” of this Agreement in which case normal Collection hours may
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be utilized). The hours, days, or both of service may be extended due to extraordinary circumstances or conditions with the prior verbal consent of the City Manager.

(c) Downtown Area Streets. Collector shall provide street sweeping service on downtown area streets commencing no earlier than 10:00 p.m. and terminating no later than 6:00 a.m., Sunday through Thursday with no service on Friday and Saturday (except for Holiday service as set forth in Exhibit “G” of this Agreement in which case normal Collection hours may be utilized). The hours, days, or both of service may be extended due to extraordinary circumstances or conditions with the prior verbal consent of the City Manager.

(d) Civic Center and Municipal Parking Lots. Collector shall provide street sweeping service on the City Hall Parking Lots (3), the Senior Center Parking Lot, the 11 Downtown Parking Lots and the parking lots at both Laurel Creek and Allan Witt Community Parks commencing no earlier than 10:00 p.m. and terminating no later than 8:00 a.m., Sunday through Thursday with no service on Friday and Saturday (except for Holiday service as set forth in Exhibit “G” of this Agreement in which case normal Collection hours may be utilized). The hours, days, or both of service may be extended due to extraordinary circumstances or conditions with the prior verbal consent of the City Manager.

3.16.8. Street Changes. City and Collector acknowledge that during the Term of this Agreement it may be necessary or desirable to add or delete City streets for which Collector will provide street sweeping service. City will provide notification of changes to Collector through the City Manager. Conditions which may cause the City Manager to order a street or an area to be bypassed temporarily include the following:

(a) Construction or development on or along a street.

(b) Pavement maintenance activities, including the chip seal program or the slurry seal program.

(c) Inclement weather when running water is in the gutter or street such that sweeping is ineffective.

(d) Special sweeping on alternative schedule.

(e) Consistent non-compliance of citizens to remove parked cars during sweep days.

(f) Other legitimate reasons that make sweeping impractical as determined by the City Manager.
3.16.9. Street Additions. As new streets are constructed and accepted by City, City may, at City's sole option, designate such streets as part of the service area for the purposes of street sweeping service. If the City Manager designates such streets as part of the service area Collector shall provide street sweeping service on such streets under the terms and conditions of this Agreement within fifteen (15) work days of receipt of notice from the City Manager to begin service.

3.16.10. Street Deletions. City may require some City streets to be temporarily or permanently removed from the list of scheduled streets for which Collector provides street sweeping service under this Agreement. Collector shall immediately cease providing street sweeping service to any city street upon receipt of notice from the City Manager to stop such service. When a city street has been temporarily removed from the list of scheduled streets, Collector shall resume street sweeping service on such street in the next regularly scheduled cycle following notification from the City Manager to resume service.

3.16.11. Revised Maps. Collector shall revise the street sweeping service route maps to show the addition or deletion of City streets as provided above and shall provide such revised maps to the City Manager upon request. The maps shall be provided in a format that can be posted to the City website.

3.16.12. Temporary Changes in Sweeping Schedule. The City Manager may notify the Collector not to sweep on a temporary basis. The City Manager shall notify Collector of the temporary suspension of service at least one day prior to the scheduled sweep, except that in the case where the reason for not performing service is because of inclement weather, then the City Manager may notify Collector at any time.

3.16.13. Parking Restrictions. The City shall also notify Collector of any streets when permit parking may impact scheduled street sweeping service. Collector may be required to adjust sweeping schedule to sweep prior to the parking permit hours restrictions.

3.16.14. Adverse Weather Conditions. Because of varying rain conditions throughout the City, Collector may verbally request permission from the City Manager to cancel sweeping during heavy and persistent rainstorms within the service area. Collector may cancel sweeping only with the prior consent of the City Manager.

3.16.15. Hazardous Waste. Collector shall not be required to remove any Hazardous Waste from the street surface. If in the course of performing street sweeping services, any suspected Hazardous Wastes are encountered, Collector shall immediately report the location to the Fairfield Fire Department or any other responsible agency and to the City Manager.
3.16.16. Disposal of Sweep Waste. Collector shall transport and deliver to the Collector’s Corporation Yard, the Designated Landfill or a staging area site approved by the City Manager for all sweep waste collected as a result of performing street sweeping services. Other than the landfill, the debris will be deposited in Debris Boxes for transport to the landfill.

3.16.17. Spillage. During hauling, all sweep waste shall be contained, covered or enclosed so that leaking, spilling and blowing of the sweep waste is prevented. Collector shall be responsible for the immediate cleanup of any spillage caused by Collector.

3.16.18. Street Sweeping Service Routes. Within thirty (30) days after execution of Agreement, City shall provide Collector with street sweeping information for use in developing routes and maps. Collector shall develop the routes and maps using this data. No later than November 15, 2011, the Collector shall submit to the City Manager, service area maps, precisely defining the sweeper routes for review and approval by the City Manager. The route maps shall include the days of the month sweeping shall occur, the sweeping schedules in adjacent areas, the portions of the City to be swept, the start and finish of each route, and any special needs such as early starts, and late finishes. The City Manager may provide written comments on the preliminary maps to Collector no later than ten (10) work days after receipt of the maps from Collector. Collector shall revise the maps to reflect such comments and return them to the City Manager within ten (10) work days after receipt of the City Manager’s comments for City corroboration. Upon approval by the City Manager of the final sweeper route maps, Collector shall develop and maintain the sweeping routes on a computerized mapping system that is compatible with City’s mapping system to the extent possible. Street sweeping maps provided to the City shall be in a format that is suitable for posting to the City website.

3.16.19. Changes in Maps. Due to addition and deletion of certain City streets shall be provided by City, and Collector shall update the maps in Collector’s system within one month. Such changes shall also be reflected in Collector’s printed route maps.

3.16.20. Service Route Changes. Collector shall submit to the City Manager, in writing, any proposed route change (including maps thereof) not less than forty-five (45) calendar days prior to the proposed date of implementation. The City Manager may provide written comments to Collector on such proposed change no later than ten (10) work days after receipt of the proposal from Collector, and Collector shall revise the routes to reflect such comments and return them to the City Manager within ten (10) work days of receipt of such comments, for City corroboration. Collector shall not implement any route changes without the prior approval of the City Manager. If the approved route change will change the day on which street sweeping service will occur, Collector shall notify the affected service recipients of route changes not less than thirty (30) work days before the proposed date of implementation in a manner approved by the City Manager.
3.16.21. Special Events City Street Sweeping Service. During the Term of this Agreement, the Collector will sweep the streets used for four (4) special events per year at no additional cost for the City. These events are: the July 4th Event, the Tomato Festival in August, The Veteran’s Parade in November, and the Christmas Parade in December.

3.16.22. Emergency Street Sweeping Service. If during the hours of the Collector’s street sweeping operations, the Police Department or Public Works Department may call for street sweeping after vehicle(s) have been removed from an automobile accident. The Collector will make every effort to respond to the accident site within 20 minutes of request and sweep the site of debris that is acceptable for this type of sweeper. There will be no additional compensation to the Collector for this service.

3.16.23. Other City Street Sweeping Service. If during the Term of this Agreement, circumstances exist which require work associated with the street sweeping service program that are not specifically provided for in this Agreement, the City Manager may require Collector to perform such work. When Collector performs such work, the labor, materials, and equipment used in the performance of this task shall be subject to the prior written approval of the City Manager. Examples that Collector may be required to perform include: performance of special sweeps, flood or other emergency clean-up, street sanitation, parades and celebration events not listed in the Agreement, the City requested clean-up services, and any contingency where sweeper and supporting sweeper equipment could assist in a particular instance will be employed by the Collector and compensated by the City.

3.16.24. Street Sweeping Quality of Work. The standards of performance that Collector is obligated to meet are those generally accepted best street sweeping practices that comply with all Applicable Laws and leave the serviced area in a debris and dirt free condition.

3.16.25. Monthly Complaint Log. The Collector shall track and log customer complaints relating to street sweeping on a monthly basis. Specifically, the Collector shall keep a daily log of the following: 1) Name and contact information of Person who called, including full name, address, phone and e-mail; 2) Time and date of call; 3) Nature of the complaint; 4) What was done to resolve the complaint and the date complaint was resolved including any follow up; 5) the Collector employee who logged the original complaint; and 6) the Collector employee who followed up on the complaint. This Monthly Complaint Log shall be transmitted to the City Manager no later than the 5th day of the following month.

3.16.26. GPS Tracking. The Collector will install and use a City approved GPS on all street sweepers to track the operations of each sweeper, including route streets swept, day and time sweeping occurred, and the speed of sweeper while on the route. This information can be used to address customer complaints about missed streets as well assist the Collector in assessing
efficiency of each operator. This information will be made available to the City Manager upon request.

3.16.27. Quarterly Reports. The Collector shall keep a daily log of curb miles swept and estimated volume collected in the residential and commercial/industrial areas. During leaf season, the Collector shall also record curb miles swept and estimated leaf volume collected in areas requiring additional sweeping. These records are to be provided to the City every quarter as part of the Fairfield-Suisun Sanitation District’s Urban Runoff Management Program.

3.17. DISPOSAL AND PROCESSING FACILITIES

3.17.1. Collector covenants that the Designated Disposal Site is in compliance with all Applicable Law, and is not on or being considered for inclusion on a State or federal Superfund list, or CalRecycle list of Solid Waste facilities failing to meet State minimum standards. Except as set forth in subsection 3.17.4, Collector shall dispose of all Solid Waste collected in the City at the Designated Disposal Site, at Collector’s expense and in accordance with all Applicable Law.

3.17.2. Collector covenants that the Designated Recycling Facilities are each properly permitted and in compliance with all Applicable Law. Collector shall deliver all Recyclables collected in the City to the Designated Recycling Facilities, at Collector’s expense and in accordance with all Applicable Law. Collector shall ensure that, after Processing, Residue material shall not exceed the amount permitted by Applicable Law. Collector shall ensure that Recyclables are used in a manner that is classified as Diversion.

3.17.3. Collector covenants that the Designated Green Waste/Food Waste Facility is properly permitted for the Composting of Green Waste/Food Waste, and is in compliance with all Applicable Law. Collector shall deliver all Green Waste/Food Waste collected in the City to the Designated Green Waste/Food Waste Facility for Composting or, with prior written approval by the City, for use as Alternative Daily Cover, bio-mass for energy production, or beneficial reuse. If any such delivery to the Designated Green Waste/Food Waste Facility would not result in the City receiving credit in calculating its Diversion Rate for having diverted the Green Waste/Food Waste from Disposal in a landfill or transformation facility, another facility must be selected. Collector shall ensure that Green Waste/Food Waste is processed into Compost or, with prior written approval by the City, for use as Alternative Daily Cover, bio-mass for energy production, or beneficial reusein accordance with Applicable Law, and used in a manner that is classified as Diversion.

3.17.4. Collector shall ensure that the Designated Disposal Site, Designated Recycling Facilities, and Designated Green Waste/Food Waste Facility are properly permitted and in compliance with Applicable Law at all times during the Term. Collector shall
immediately inform City Manager in writing in the event of non-compliance and the City, in its sole discretion, shall have the right to require the use of a different Disposal or Processing Facility, to be selected by Collector. The City Council may require the Collector to select and designate a different site, to be selected by Collector, at any time during the Term for so long as the Designated Disposal Site, Recycling Facilities, or Green Waste/Food Waste Facility (as the case may be) is determined to not be in compliance with the provisions of this Section 3.17, and the City Council determines that the Designated Disposal Site, Recycling Facilities, or Green Waste/Food Waste Facility (as the respective case may be) is not acceptable due to a failure to comply with the terms of this Agreement or a finding by State or federal regulatory agencies with jurisdiction over the facility that it is not in compliance with Applicable Law, including the Environmental Statutes, and is unable to accept City’s Solid Waste, Green Waste/Food Waste or Recyclables (as the case may be) until the facility is determined to be in compliance. Under no circumstances, however, shall a change in one or more of the Designated Disposal Site, Recycling Facilities, or Green Waste/Food Waste Facility pursuant to this subsection 3.17.4 provide a basis for an increase in the Rates.

3.18. TITLE TO SOLID WASTE, RECYCLABLES AND GREEN WASTE/FOOD WASTE

It is expressly understood that all Solid Waste, Recyclables and Green Waste/Food Waste collected under this Agreement becomes the property of Collector at the point of Collection, subject to the requirement of delivery of Solid Waste to the Designated Disposal Site, Recyclables to the Designated Recycling Facilities, and Green Waste/Food Waste to the Designated Green Waste/Food Waste Facility. At no time does City obtain any right of ownership or possession of Solid Waste or Recyclables or Green Waste/Food Waste placed for Collection, and nothing in this Agreement shall be construed as giving rise to any inference that City has any such rights. City and Collector agree that, for the purposes of the Uniform Commercial Code and all other laws imposing liability for defective products, it is Collector, and not City that is to be considered the “merchant” of goods recycled pursuant to this Agreement.

3.19. PUBLIC EDUCATION

3.19.1. Collector shall develop and implement a public education and information program in order to maximize participation in the Residential and Commercial/Industrial Recycling and Green Waste/Food Waste Collection efforts, and provide information on the availability of Bulky Waste services and other special Collection services described in this Article 3, as well as on the complaint resolution procedure set forth in Section 3.21. The public education and information program may include, without limitation, media advertising, contests, and community involvement programs. The public education and information program shall include methods of intensive outreach prior to and immediately after the Commencement Date, as well as periodically (no less often than annually) thereafter, and methods of informing
customers of available services at the time they apply for service. The various elements of the public education and information program shall be reviewed and approved by the City Manager. The direct costs of implementing the program shall be borne by Collector.

3.19.2. Throughout the Term, Collector shall provide Subscribers with information pertaining to this Agreement and shall conduct public education services that include, but are not limited to, providing information pertaining to the following:

(a) New services implementation;

(b) Change in service;

(c) Notices of incorrect setouts;

(d) Curbside Bulky Waste Program;

(e) Annual Holiday tree Collection Services, including non-profit Collection alternatives;

(f) Coordination with City in development of monthly promotions and public education materials on source reduction, Recycling, backyard Composting and Green Waste/Food Waste Program topics. City shall have the right to review and approve all public education and promotion materials prior to distribution by Collector;

(g) The availability of free wheel-out service for qualifying Subscribers;

(h) The availability of extra Containers, wheel-out, and on-call Bulky Waste service for additional fee;

(i) Household Hazardous Waste program services provided pursuant to this Agreement;

(j) Providing Recycling outreach to schools and community groups as requested. City shall have the right to review, approve, and participate in all education and outreach materials prior to distribution;

(k) Providing Recycling education to users of buildings receiving free service pursuant to Sections 3.10 and 3.11; and

(l) The availability of the lifeline Rate for qualified Residential Householders.

3.19.3. All press releases, reports, or other documents prepared by Collector for release to the public, the CalRecycle, or any other Public Agency that materially affect the City
shall be subject to the prior review (for a period of at least five business days) of the City Manager. The parties agree that, for purposes of this subsection 3.19.3, any reports or other documents relating to the automated Collection system in the City, or to City's Source Reduction and Recycling Element (SRRE), Household Hazardous Waste Element (HHWE), and Diversion Rate, materially affect the City.

3.20. PUBLIC ACCESS TO COLLECTOR

3.20.1. Collector shall establish and maintain at all times during the Term an office and corporation yard within the City. Collector's office hours shall be, at a minimum, from 8:00 a.m. to 5:00 p.m. Monday through Friday, except Holidays. A responsible and qualified representative of Collector shall be available at Collector's office during office hours for communication with City and the public.

3.20.2. Collector shall maintain a toll-free telephone system in operation at its in-City office to assist Subscribers during the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday, and from 8:00 a.m. to 5:00 p.m. on Saturdays. Collector shall install telephone equipment, and have available service representatives, sufficient to handle the volume of calls typically experienced on the busiest days. Subscribers must be able, with reasonable convenience, to reach Collector's office by phone during the hours set forth in this Section. Notwithstanding the above, Collector may use an answering service on Saturdays. Collector shall have a representative, answering service or voicemail system available at the toll-free telephone number during all hours other than the hours set forth herein. Any recording shall provide an additional number to call in the event of an emergency. Collector shall provide the City Manager the means to contact a representative of Collector directly by telephone on a 24-hour basis in the event of an emergency.

3.21. SERVICE COMPLAINTS AND RESPONSE

3.21.1. Collector agrees to maintain a computer-based log ("Complaint Log") of all oral and written service complaints registered with Collector from Subscribers or the public within the City. The Complaint Log shall be maintained in a computerized database format reasonably acceptable to the City Manager. Collector shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all Subscriber complaints. Subscriber complaints that cannot be reasonably resolved may be appealed to the City Manager for final resolution. Collector shall record in the Complaint Log all written and oral complaints, noting the name and address of complainant, date and time of complaint, nature of complaint, name of Collector employee taking the complaint, and the nature and date of resolution. The Complaint Log shall be maintained so that representatives of City upon request may conveniently inspect it. Collector shall deliver a summary of complaints by number and type,
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and a copy of the Complaint Log reflecting action to date along with the quarterly reports specified in Section 9.3 or otherwise upon request of the City.

3.21.2. Collector shall respond to all complaints from Subscribers, other than missed pickups, within one business day.

3.21.3. In the event of a missed pickup, Collector shall complete the pickup the same day if the complaint is received by 3:00 p.m., or by 12:00 p.m. the following business day if the complaint is received after 3:00 p.m.

3.22. REPORT ACCUMULATION OF SOLID WASTE; UNAUTHORIZED DUMPING

Collector shall direct its drivers to note the addresses of any premises at which they observe significant and ongoing accumulation of Solid Waste that is not being delivered for Collection, and the address or other location description at which Solid Waste has been dumped in an apparently unauthorized manner. Collector shall deliver the address or description to the City Manager within three (3) working days of such observation.

3.23. PRIVACY

Collector shall strictly observe and protect the rights of privacy of Subscribers. Information identifying individual Subscribers, or the composition or contents of a Subscriber’s Solid Waste or Recyclables, shall not be revealed to any Person, governmental unit, private agency, or company, unless upon the authority of a court of law, authorized Federal, State, or municipal law enforcement agency, by statute, or upon valid authorization of the Subscriber. Collector shall not market or distribute mailing lists with the names and addresses of residential or commercial/industrial Subscribers. This provision shall not be construed to preclude Collector from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses that may be required by City pursuant to the Act. The rights accorded Subscribers pursuant to this Section shall be in addition to any other privacy rights accorded Subscribers pursuant to Federal or State law.

3.24. CHANGE IN OPERATIONS, ADMINISTRATION OR SCHEDULE

Collector shall notify the City Manager in writing of any proposed material changes in or to the Collection Services operation (e.g. vehicle routes, equipment type or number, crew size), administration (e.g., management and employees), and schedule prior to implementation. Any changes to the Collection operation shall meet the service standards and other terms of this Agreement. In the case of changes to the Collection schedule, Collector must notify all affected Subscribers at least (14) days prior to any change in the Collection day. Collector shall not
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permit any Subscriber to go more than seven (7) days without service in connection with a Collection schedule change.

3.25. MODIFICATION OR CHANGE OF COLLECTION SERVICES; NEW SERVICES

3.25.1. Upon receiving a written request from the City Manager, Collector shall provide:

   (a) Reasonable modification of any Collection Service subject to establishment of appropriate compensation for providing the service. Such a service modification may include, but not be limited to, the addition or deletion of specific residential Recycling materials; and

   (b) Any exclusive or non-exclusive services not covered by this Agreement, and that it is qualified to provide.

3.25.2. The implementation of any modified or additional service shall be contingent upon City Manager’s approval of a Rate acceptable to Collector pursuant to Section 6.3. If a mutually acceptable Rate for a new service requested by City cannot be negotiated between City and Collector within a reasonable time frame, City reserves the right to solicit other bids and obtain other service provider(s) for additional service. Nothing in this Agreement requires City to request additional services from Collector.

3.26. USE OF LNG VEHICLES; FUELING STATION

3.26.1. All collection vehicles used in the provision of all services performed pursuant to this Agreement shall be dedicated LNG vehicles. Replacement of the Collector’s fleet in service as of October 1, 2011 shall occur according to the schedule outlined in Exhibit “F”.

3.26.2. Collector agrees to participate with City in the pursuit of grants, pilot programs, or other mutually acceptable efforts, that provide for cost offset for LNG Collection vehicles.

ARTICLE 4. OPERATING STANDARDS AND WORK PLANS

4.1. OPERATING STANDARDS

4.1.1. Company Standards

   (a) Services are to be completed in a thorough and professional manner that constitutes litter-free, reliable, timely, courteous and high-quality service.
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(b) Collector shall at all times perform its duties using best industry practice for comparable operations.

(c) Personnel shall conduct themselves in a courteous, workmanlike manner.

(d) Color and appearance of Collection and street sweeping vehicles, Containers, employee uniforms, and public education materials provided by Collector shall be designed to provide a standard representation of the company. If subcontractors are included, a distinct but uniform appearance of the subcontractor equipment, vehicles, and personnel is allowed.

4.1.2. Personnel

(a) Collector shall furnish such qualified drivers, mechanical, supervisory, clerical and other personnel as may be necessary to provide the Collection and street sweeping services required by this Agreement in a safe and efficient manner.

(b) All Collector employees must be able to read, write and speak English with sufficient proficiency to enable them to successfully meet and adhere to all of the terms of this Agreement.

(c) All employees, while engaged in Collection and street sweeping services within the City, shall be attired in suitable and clean uniform shirts that are subject to approval by City. Collector shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. Collector shall regularly train its employees in Subscriber courtesy, shall prohibit the use of loud or profane language, and shall instruct Collection crews to perform the work as quietly as possible. If any employee is found not to be courteous or not to be performing services in the manner required by this Agreement, Collector shall take all appropriate corrective measures.

(d) Collector shall require its drivers, and all other employees who come into contact with the public, to wear a clean uniform shirt with an identification badge or other means of identifying the employee, as approved by the City Manager.

(e) Driver Qualifications. All drivers shall be trained and qualified in the operation of Collection or street sweeping vehicles and must have in effect a valid license, of the appropriate class with appropriate endorsements, issued by the California Department of Motor Vehicles. All Collection vehicle drivers shall also complete an in-house training program provided by Collector which includes education on the use of all vehicles in the Collection fleet, Collection programs, and route information as well as Subscriber service practices and safety information.
(f) Safety Training. Collector shall provide suitable operational and safety training for all of its employees who utilize or operate vehicles or equipment for Collection and street sweeping or who are otherwise directly involved in such services. Collector shall train its employees involved in Collection to identify, and not to collect, Hazardous Waste or infectious waste.

(g) No Gratuities. Collector shall not permit its employees to demand or solicit, directly or indirectly, any additional compensation or gratuity from members of the public for the Collection and street sweeping services under this Agreement.

(h) No Discrimination. Collector shall not discriminate during the performance of this Agreement against any employee or applicant for employment because of the employee’s or applicant’s race, religion, national origin, ancestry, sex, age, disability, marital status, or sexual orientation. Collector understands and agrees that if it violates this no discrimination provision, City may terminate this Agreement, and Collector shall further be barred from performing any services for City, unless a showing is made satisfactorily to City that discriminatory practices have been terminated and that reoccurrence of such action is unlikely.

(i) Provision of Field Supervision. Collector shall designate one qualified employee as supervisor of field operations. The field supervisor shall devote whatever time is necessary, but not less than fifty percent (50%) of his/her time, in the field checking on Collection operations, including timely response to complaints.

(j) Recycling Coordinator. Collector shall provide a full time Recycling Coordinator dedicated to services covered under this Agreement.

(k) City Manager Directions. All orders, directions and instructions of the City Manager to Collector, not inconsistent with the terms of this Agreement, shall be promptly complied with by Collector.

4.1.3. Collection Services

(a) Residential Service. Collector shall make Solid Waste Collection, Recyclables Collection and Green Waste/Food Waste service available to all Residential Premises in the City.

(b) Residential Bulky Waste. Each Residential account and each unit in a Multi-Family Residence shall be entitled to two (2) on-call pick-ups per year of up to three (3) cubic yards of Solid Waste and two (2) items of Bulky Waste per each pick-up. Collector shall provide this service Collector shall provide one coupon to each unit in a Residential Premises annually for Disposal at the Designated Disposal Site of up to two (2) cubic yards of Solid Waste and one Bulky Waste item at no charge.
(c) Holiday Tree Recycling. Collector shall collect and process as Green Waste all Christmas trees on the first three days of regular Collection following December 25th on each route, at no additional charge to Subscriber or City.

(d) Commercial/Industrial Service. Collector shall make Solid Waste Collection, Recyclables Collection and Green Waste/Food Waste service available to all Commercial/Industrial Premises in the City. Collector shall provide on-site waste stream assessments to no less than 20% of Commercial accounts.

(e) Travis Air Force Base. Collector shall furnish all labor, supervision, materials, permits, licenses, and equipment necessary to provide Collection of Solid Waste, Green Waste/Food Waste and Recyclables from Travis Air Force Base.

(f) Public Schools. Collector shall Collect and deliver for Disposal or Processing Solid Waste, Recyclables, and Green Waste/Food Waste from all School Facilities and School Districts located within City.

(g) City Facilities. Collector shall Collect and deliver for Disposal or Processing Solid Waste, Recyclables, and Green Waste/Food Waste from all City Facilities - At no charge to the City.

(h) Household Hazardous Waste Facility and Program. Collector shall provide and maintain permanent Household Hazardous Waste Collection Facility located within City limits.

4.1.4. Collection Requirements

(a) Care of Private Property. Reasonable care shall be used by Collector's employees in handling all Collection Containers and enclosures, and all damage caused thereto by the negligence or carelessness of Collector's employees shall be promptly adjusted with the Owner thereof. All Collection Containers after emptying thereof by Collector's employees shall be returned to within five (5) feet of the location from which the same were picked up by Collector's employees, upright with lids properly secured, and Collector's employees shall use all reasonable means to ensure same are not deposited in a manner that blocks any driveway, sidewalk, or street. Collector shall ensure that its employees close all gates opened by them in making Collections, unless otherwise directed by the Subscriber, and avoid crossing landscaped areas and climbing or jumping over hedges and fences. City shall refer complaints about damage to private property to Collector. Collector shall repair all damage to private property caused by its employees.

(b) Noise. All Collection operations shall be conducted as quietly as possible and shall conform to applicable federal, State, county and City noise level regulations, including
the requirement that the noise level during the stationary compaction process not exceed 60 decibels with the exceptions of 65 decibels for a 1-minute duration. City may conduct random checks of noise emission levels to ensure such compliance. Collector shall promptly resolve any complaints of noise to the satisfaction of the City Manager.

(c) Record of Non-collection. When any materials deposited for Collection are not collected by Collector, Collector shall provide notice to the Subscriber, at Collector’s cost. The notice shall provide Collector’s phone number and indicate the reasons for Collector’s refusal to collect the materials placed in the Collection Containers giving reference to the Section of the appropriate City ordinance or to the Section of this Agreement which has been violated, and which gives grounds for Collector’s refusal. This information shall either be in writing via a tag at least 2 inches x 6 inches in size, or by means of a check system. Collector shall maintain, at Collectors place of business, a logbook listing all occurrences of non-collection. The logbook shall contain the names and date and manner of disposition of each case. Such log shall be kept so that it may conveniently be inspected by representatives of City upon request.

(d) Load Checking. Collector is responsible for inspecting all materials prior to Collection for Hazardous Waste or other unacceptable materials.

4.1.5. Collection Schedule

(a) If the day of Collection on any given route falls on a Holiday, Collector shall provide Collection service for such route on the next workday following such Holiday. In the event the Holiday schedule of the Designated Disposal Facility, Designated Recycling Facilities, or Designated Green Waste/Food Waste Processing Facility are different than the Holidays stated herein, the Holiday schedule will be adjusted upon prior written notice to the City Manager.

(b) Collection Services shall not start before 6:00 a.m. or continue after 6:00 p.m., six days per week excluding Sunday. Collector shall not provide Collection Services on Sundays. Collection service hours are subject to change by City Council in the exercise of its reasonable discretion or unless otherwise provided for in Chapter 9 of the City Code.

(c) Collector shall provide one pickup per week for Residential Premises from the curbside (with the exception of wheel-out service for qualifying disabled individuals and for Subscribers paying additional charge for wheel-out service).

(d) Collector shall provide at least once weekly pickup for Commercial/Industrial Premises Subscribers from a location designated by the property Owner.

(e) Recyclables and Green Waste/Food Waste shall be collected from Residential Premises on the same day as Solid Waste.
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(f) For the first regularly scheduled Collection after Christmas Day, Collector shall collect and dispose of the material in the Green Waste/Food Waste Container as Solid Waste if the Subscriber uses the Green Waste/Food Waste Container for Solid Waste Disposal.

4.1.6. Collection Containers

(a) Collector shall provide Containers for storage of materials that shall be designed and constructed to be watertight and prevent the leakage of liquids. All Containers with a capacity of 1 cubic yard or more shall meet all applicable federal regulations on Solid Waste Container safety. All Containers provided by Collector shall be constructed of rigid, durable materials with a minimum five (5) year life expectancy warranted by the manufacturer.

(b) The Containers shall be clearly labeled to indicate their designation for Collection of Solid Waste, Green Waste/Food Waste or Recyclables and shall list the types of materials to be stored in the Container for Collection.

(c) Collector shall be responsible for distributing all Containers to Subscribers in accordance with the provisions of this Agreement.

(d) Collector shall repair, clean, paint, and replace Containers as needed to maintain a clean, attractive, functional, new-like condition. All graffiti shall be removed immediately.

(e) Collector shall report to the City not less than semi-annually the number of Containers replaced.

4.1.7. Collection and Street Sweeping Vehicles

(a) General. Collector shall provide a fleet of Collection and street sweeping vehicles sufficient in number and capacity to efficiently perform the work required by this Agreement in strict accordance with its terms. Collector's fleet of vehicles shall comply with Chapter 9, Article IV, Section 9.190 of the City Code and applicable provisions of the California Vehicle Code. The City Manager has the right to inspect Collector's fleet of vehicles, not more often than annually, to ascertain whether they remain in full compliance with Article IV of Chapter 9 of the City Code and applicable provisions of the California Vehicle Code. Collector shall immediately remove from service any vehicle that, in the reasonable discretion of the City Manager, is not in full compliance with Article IV of Chapter 9 of the City Code and applicable provisions of the California Vehicle Code.

(b) Vehicles collecting Solid Waste, Green Waste/Food Waste, and Recyclables in Carts shall be fully automated such that, with the exception of wheel-out service, Collector's employees are not required to leave the vehicle to collect Cart contents. All
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Collection and street sweeping vehicles used to perform the work required by this Agreement shall be powered solely by liquefied natural gas, and engines shall be certified to meet, at a minimum, the California Air Resources Board optional NOx standard of 2.5 g/bhp-hr. Collector agrees to maintain each piece of equipment used by it in the performance of this Agreement in good order and repair. Collector shall have available on service days sufficient backup vehicles and qualified operators to respond to complaints and emergencies. Collector may use semi-automatic vehicles as may be necessary to provide services (other than the routine Collection of Standard Residential Containers) pursuant to this Agreement.

(c) LNG Vehicle Replacement. Collector shall replace LNG Vehicles on or before the Schedule set in Exhibit “F”.

(d) Vehicle Identification. Collector’s name, phone number, and vehicle identification number must be visibly displayed on both sides of all vehicles in letters and figures consistent with the requirements of Section 27901 of the California Vehicle Code.

(e) Cleaning and Maintenance of Vehicles

(i) General. Collector shall maintain all of its properties, facilities, and equipment used in providing service under this Agreement in a safe, neat, clean and operable condition at all times, and well and uniformly painted, to the satisfaction of the City Manager. Vehicles shall be maintained in such a manner that no leakage of fluids from the collected materials occurs.

(ii) Cleaning. Vehicles used in the Collection and street sweeping shall be thoroughly washed at a minimum of once per week, and thoroughly steam cleaned on a regular basis so as to present a clean appearance and minimize odors. All vehicles shall be painted on a regular schedule to maintain a clean, professional, new-like appearance, although the City Manager may require the painting of any vehicle that does not present a satisfactory appearance at any time. The vehicles shall be painted in a uniform manner; although Solid Waste, Recycling, and Green Waste/Food Waste vehicles may have different painting schemes. All graffiti shall be removed immediately. City may inspect vehicles at any time to determine compliance with sanitation requirements. Collector shall make vehicles available to the County Health Department for inspection at any frequency the City requests.

(iii) Maintenance. Collector shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles which are not operating properly shall be taken out of service until they are repaired and do operate properly. Collector shall also perform all scheduled maintenance functions in accordance with the manufacturer’s specifications and schedule. Collector shall keep accurate records of all vehicle maintenance, recorded according to date and mileage, and shall make such records available to City upon request.
(iv) Repairs. Collector shall repair, or arrange for the repair of, all of its vehicles and equipment, including dents, leaks, and other body damage, for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a neat, safe and operable condition. If an item of repair is covered by a warranty, Collector shall obtain warranty performance. Collector shall maintain accurate records of repair, which shall include date/mileage, nature of repair and the signature of a maintenance supervisor that the repair has been properly performed.

(v) Inventory. Collector warrants that it shall provide an adequate number of vehicles and equipment for the Collection, Disposal, and transportation services and street sweeping for which it is responsible under this Agreement. Collector shall furnish City a written inventory of all vehicles, including Collection vehicles, used in providing service, and shall update the inventory annually. The inventory shall list all vehicles by manufacturer, ID number, date of acquisition, type, capacity and decibel rating.

(vi) Storage. Collector shall arrange to store all vehicles and other equipment in safe and secure location(s) in accordance with City’s applicable zoning regulations.

4.1.8 Vehicle Operation

(a) All vehicles must be registered with the Department of Motor Vehicles of the State of California and inspected by the California Highway Patrol at the frequency required by the State. Vehicles shall be operated in compliance with the California Vehicle Code and all applicable safety and local ordinances.

(b) Collector shall not load Collection and street sweeping vehicles in excess of the manufacturer’s recommendations or limitations imposed by state or local weight restrictions on vehicles.

(c) Collector shall use all reasonable means to minimize the backing up of Collection vehicles.

4.1.9 Collection and Street Sweeping Routes

(a) Collection routes shall be established and maintained in such a manner as to provide uniform and efficient Collection and street sweeping services.

(b) Collector shall submit route plans to the City Manager for informational purposes at the start of this Agreement, one year prior to the end of this Agreement, at the end of this Agreement and, at end of the contract Term and whenever there is a significant routing change. The route plans shall include, but not be limited to, the following information:
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(i) the course each vehicle follows;

(ii) the properties served;

(iii) approximate starting and ending time for each route; and

(iv) the day of week the route will be served.

(c) Materials collected shall not be mixed in Collector’s Collection equipment with any materials collected from another municipality, unless Collector accurately accounts for such mixed loads in its reporting to City and the Designated Green Waste/Food Waste Processing Facility, Recycling Facilities, and Disposal Site, and any applicable reports prepared by Collector.

4.1.10 Litter Abatement

(a) Minimization of Spills. Collector shall use due care to prevent materials placed in the Collection Containers from being spilled or scattered during the Collection or transportation process. If any material is spilled during Collection, Collector shall promptly clean up all spilled materials. Each Collection vehicle shall carry a broom and a shovel at all times for this purpose. Collector shall not transfer loads from one vehicle to another on any public street, unless it is necessary to do so because of mechanical failure or accidental damage to a vehicle.

(b) Cleanup. During the Collection transportation process, Collector shall clean up litter in the immediate vicinity of any storage area (including the areas where Collection Bins are delivered for Collection) of any materials that escape from the Collection vehicle or Collection Containers as a result of Collector’s service. In the event that litter not caused by Collector’s service is in the vicinity of the storage area, Collector is required to clean up this litter whether or not Collector has caused the litter on a one-time basis and shall discuss the spillage directly with the Subscriber responsible and shall report such instances to City. Collector shall work with the Subscriber to resolve the spillage problem. City will attempt to rectify such situations with the Subscriber if Collector has already attempted to do so without success.

(c) Covering of Loads. All materials shall be contained or covered during transportation to the Disposal or Processing site. No material shall be transported to the Disposal site or Processing facility in vehicle hoppers.

(d) Oil or Other Vehicle Fluid Spills. Collector is responsible for cleaning up all oil or vehicle fluid spills immediately and must notify City within 24 hours of each such spill. All vehicles must carry an acceptable absorbent material to use in the event of spills. Repair for
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damages caused by oil or other vehicle spills shall be at Collector’s expense. Collector will follow the spill procedures below:

(i) Driver will determine cause and source of spill.

(ii) Each driver or shop employee is responsible for having enough absorbent in their vehicle to contain or prevent any hydraulic fluid or oil from entering a storm drain or sewer and to clean up small spills as they occur.

(iii) Driver will contain or stop the leak and clean it up without endangering self.

(iv) Driver will immediately notify dispatch or supervisor.

(v) Driver will not leave the spill until either a supervisor or spill response personnel arrive at the scene.

(vi) Driver will keep all people, cars, or other vehicles from walking or driving through the spill.

(vii) Driver or spill response personnel will take whatever action possible to prevent the spill from entering any storm drain, grates, or other entry points.

(e) During hauling, all Street Sweeping Fines shall be contained, covered or enclosed so that leaking, spilling and blowing of the Street Sweeping Fines is prevented. Collector shall be responsible for the immediate cleanup of any spillage caused by Collector.

4.1.11. Corporation Yard, Recyclables and Green Waste/Food Waste Processing and Marketing

(a) General Operations and Maintenance Standards. Collector covenants to comply with Collector’s performance obligations throughout the Term and to perform Collector’s performance obligations with respect to corporation yard and Recyclables and Green Waste/Food Waste, Street Sweeping Fines Processing, and marketing services in accordance with accepted practice for comparable facilities, sound management and operations practice, the facility’s operation and maintenance manual, plans and specifications, permits, Applicable Law (including OSHA standards), provisions hereof, and covenants, conditions and restrictions pertaining to the site.

Collector shall be responsible for maintaining and renewing all necessary permits, licenses, and clearances necessary to provide the transportation and Processing of Recyclables and Green Waste/Food Waste, Street Sweeping Fines and corporation yard
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operation. Collector shall maintain and renew permits, however, Collector shall not be responsible for any delays in maintaining or renewing, or failure to maintain or renew the permits if Collector has exercised due diligence in maintaining and/or renewing the permits, and such failure is caused by any action or inaction of the issuing or renewing authority.

(b) Maintenance and Repair. Collector shall maintain the facilities and sites in good working order and repair, including maintaining spare parts inventory and performing periodic maintenance in accordance with the operations and maintenance manual, manufacturer’s recommendations, accepted practice for comparable facilities, and sound management and operations practice. Collector shall maintain the aesthetic appearance of the facilities and sites in a clean and neat manner in accordance with the plans and specifications, with due regard for reasonable control of odors, dust, and noise.

(c) Safety. Collector shall conduct facility operations in a safe manner, in accordance with Applicable Law, requirements of insurance carried, and standard industry practices in the waste management and materials recovery industry.

(d) Right to Enter and Inspect Facility. City and its designated representative shall have the right, but not the obligation to enter, observe, and inspect the corporation yard and Recyclables and Green Waste/Food Waste, Processing facilities during regular business hours; meet with the facilities’ managers or their representative at any time, and meet with other employees upon request, which request shall not be unreasonably denied. Upon City request, Collector shall make personnel available to accompany City employees on inspections. Collector shall ensure that its employees cooperate with City and respond to City’s reasonable inquiries. Collector shall make operational and business records other than financial records available to City during receiving hours upon City request.

(e) Tours of Facilities. Upon 24 hours request of City, Collector shall provide tours of the facilities. Such tours shall not unreasonably disrupt facility operation. City shall not be charged for labor, overhead, overtime, or any other costs associated with such tours. As part of such tours, Collector shall distribute an educational brochure, printed on recycled paper, on conservation, Recycling, and general Solid Waste management programs.

(f) Personnel. Collector shall engage and train qualified and competent employees, including managerial, supervisory, clerical, maintenance, and operating personnel, in numbers necessary and sufficient for facility operations and to perform Collector’s obligation under this Agreement. Collector shall train such staff to perform their work in a safe and efficient manner in accordance with the health and safety plan in the facility’s operations and maintenance manual.
(g) Recovery Standards. Collector shall use reasonable business efforts to maximize the recovery of delivered materials in a manner acceptable to receive Diversion credit under the Act.

(h) Finished Product Standard. The processed Recyclables and Green Waste/Food Waste shall maintain physical and chemical specifications such as to: (a) achieve the results required under the applicable marketing plan; and (b) comply with Applicable Law.

(i) Transportation of Residue. Collector shall transport and deliver all Residue and Street Sweeping Fines to the designated Disposal Facility within forty-eight 48 hours after its delivery to the facility and in no event longer than required by Applicable Law. Collector shall select routes from the facility to the Designated Disposal Facility that minimize inconvenience and disturbance to the public and comply with permits and Applicable Law. Collector shall enclose or cover all vehicles transferring Residue from the facility to prevent spillage.

4.1.12. Street Sweeping Services

(a) Collector shall provide street sweeping services to all curb miles on all City maintained streets.

(b) Collector shall obtain water, from City owned hydrants for the water necessary in the street sweeping operation, and report the total gallons used per month to the City Manager.

(c) Collector shall utilize a TYMCO street sweeper. In the event that TYMCO sweepers are no longer available or new technology provides superior performance then TYMCO sweepers, Collector, with prior written approval by the City Manager, may use a sweeper that is substantially similar and provides comparable performance and specifications.

(d) Collector shall operate the sweepers at a speed of not more than six (6) miles per hour when sweeping or when the sweeper brooms are down, unless Collector can demonstrate that the sweeper can operate efficiently and safely at a higher speed.

(e) Collector shall sweep a full path, with all brooms down, unless parked vehicles, structures, or other objects prohibit the safe sweeping of this path width.

(f) Special Events. The Collector shall sweep the streets for four (4) special events as covered under this Agreement. At no additional charge to the City.

(g) Street Sweeping Schedule.
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(i) Residential Streets. Collector shall provide street sweeping service for each curb mile of residential streets and alleys in the City once monthly on a scheduled route basis. Collector shall provide street sweeping service on residential streets commencing no earlier than 7:00 a.m. and terminating no later than 5:00 p.m., Monday through Friday with no service on Saturday or Sunday.

(ii) Leaf Season. Between the dates of November 1-January 15 of each year, Collector shall provide street sweeping service for each curb mile of the residential streets in the City either weekly or bi-weekly on a scheduled route basis. This 2 ½ month window may move up or back based on the direction of the City Manager.

(iii) City Owned Parks Parking Lots. Collector shall provide street sweeping service for each City owned parks parking lot in the City once monthly on a scheduled route basis.

(iv) Major Arterial Streets. Collector shall provide street sweeping service for each curb mile of major arterial streets in the City either once per week or bi-weekly on a scheduled route basis. Collector shall provide street sweeping service on major arterial streets commencing no earlier than 8:00 p.m. and terminating no later than 6:00 a.m., Sunday through Thursday with no service on Friday or Saturday.

(v) Civic Center and Community Parks Parking Lots. Collector shall provide street sweeping service for the City Hall parking lots (3) and the Senior Center parking lot in the City once weekly on a scheduled route basis. The parking lots at both Laurel Creek and Allan Witt Community Parks shall be swept once every two weeks. Collector shall provide street sweeping service commencing no earlier than 10:00 p.m. and terminating no later than 8:00 a.m., Sunday through Thursday with no service on Friday or Saturday.

(vi) Municipal and Parks Parking Lots. Collector shall provide street sweeping service for the 11 municipal parking lots shown on Exhibit “G” on a monthly scheduled route basis. Parks parking lots shall be swept on the same day of the month that routine sweeping of the adjoining residential neighborhood takes place commencing no earlier than 10:00 p.m. and terminating no later than 6:00 a.m., Sunday through Thursday with no service on Friday or Saturday.

(h) Street Sweeping Routes

(i) If the City Manager designates such streets as part of the Service Area Collector shall provide street sweeping service on such streets under the terms and conditions of this Agreement within fifteen (15) days of receipt of notice from the City Manager to begin service.
(ii) Not less than forty-five (45) days prior to commencement of street sweeping services, Collector shall submit to the City Manager, Service Area maps, precisely defining the Sweeper Routes for review and approval by the City Manager.

(iii) Collector shall revise the street sweeping service route maps to show the addition or deletion of City streets as provided above and shall provide such revised maps to the City Manager as requested. The maps shall be provided in a format that can be posted to the City website. The route maps shall include the days of the month sweeping shall occur, the sweeping schedules in adjacent areas, the portions of the City to be swept, the start and finish of each route, and any special needs such as early starts, and late finishes.

(iv) Collector shall submit to the City Manager, in writing, any proposed street sweeping route change (including maps thereof) not less than forty-five (45) calendar days prior to the proposed date of implementation.

4.1.13. Billing and Reporting

(a) Delinquent Accounts. For delinquent Residential accounts, Collector shall send a first delinquency notice following billing cycle for which Subscriber is delinquent. If the delinquent account has not paid in full within thirty (30) days, Collector shall send a final delinquency notice. For delinquent Commercial/Industrial accounts, Collector shall send a first delinquency notice following billing cycle for which Subscriber is delinquent. If the delinquent account has not paid in full within thirty (30) days, Collector may suspend service. Collector may charge reasonable interest, accrued late fees and service re-instatement fees on delinquent accounts that have had service suspended, but may not continue to charge service rates for those accounts that have had service suspended.

(b) Billing. Collector shall bill Residential accounts on a bimonthly basis and bill Commercial accounts on a monthly basis. Collector shall prepare and provide to City a monthly statement and a Monthly Remittance by the 15th day following each month of Collection Services.

(c) Annual Financial Statement. Collector shall submit an annual financial statement, pursuant to Section 8.3.

(d) Quarterly Report. Collector shall compile and keep the following information for each month during the quarter: Solid Waste data, Recycling data, Green Waste/Food Waste data, Household Hazardous Waste data, complaint log, problems and actions taken, Disposal summaries, market price, curb miles swept and volumes of Street Sweeping Fines collected.
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(e) Annual Report. Annual Reports shall be submitted no later than March 1st for the previous calendar year.


(a) Public Access to Collector. Collector shall maintain an office during all times throughout the Term. Office hours shall be, at a minimum, 8:00 AM to 5:00 PM Monday thru Friday. Collector shall maintain a toll-free telephone number to assist Subscribers from 7:00 AM to 6:00 PM Monday thru Friday and 8:00 AM to 5:00 PM on Saturdays.

(b) Service Complaints and Response. Collector shall maintain a complaint log of all oral and written service complaints registered with Collector. Collector shall respond to all complaints, other than missed pickups, within one business day. In the event of a missed pickup, Collector shall complete the pickup the same day if the complaint is received by 3:00 PM, or by 12:00 PM the following business day if the complaint is received after 3:00 PM.

4.1.15. Diversion

(a) City requires the Collector to achieve a minimum annual Diversion Rate of fifty percent (50%) for Residential Collection Services and Commercial/Industrial Collection Services during each calendar year beginning January 1, 2012. In calculating the Diversion Rate, Collector may include documentation of Recyclables or Green Waste/Food Waste collected or backhauled by Subscribers for delivery to an end-use market, re-seller, food bank, or processing facility. Documentation may include reports, receipts or other written materials that lists the type of materials and tonnage diverted from the Subscriber’s place of business that would otherwise have been collected by the Collector as either Solid Waste, Recyclables or Green Waste/Food Waste.

4.2. WORK PLANS

4.2.1. Collector shall submit the work plans listed below by December 31, 2011, for review and approval by the City Manager. In the event that the Collector fails to submit the required workplans to the City Manager by January 1, 2012, Collector shall pay the City Liquidated Damages as specified in Section 11.4 for each day the work plans are not submitted. The approved work plans will be deemed to be incorporated herein as Exhibits to this Agreement.

(a) Public Education and Information Plan (subsection 3.19.1). Collector’s plan to develop, implement and maintain on-going public education and outreach including but not limited to handouts, brochures, fliers, website, TV and radio and other social media methods.
(b) Household Hazardous Waste Collection Plan (subsection 3.14). Operate and document Household Hazardous Waste Collection events, BOPA and curbside used oil Collection process, including dates, staff, location for disposal of Household Hazardous Waste and list of subcontractors hired for disposal.

(c) Residential Diversion Plan. Collector’s plan to develop, implement and maintain Recycling and Green Waste/Food Waste Diversion programs as mandated. This plan shall also include Collector’s strategy for increasing Diversion and providing Recycling and Green Waste/Food Waste services to all Commercial/Multi-Family/Industrial customers.

(d) Commercial/Multi-Family/Industrial Recycling Plan (subsection 3.8). Collector’s plan to develop, implement and maintain Recycling and Green Waste/Food Waste Diversion programs as mandated, and conduct on-going waste stream assessment. This plan shall also include Collector’s strategy for increasing Diversion and providing Recycling and Green Waste/Food Waste services to all Commercial/Multi-Family/Industrial customers.

(e) School Facilities Recycling and Green Waste/Food Waste Diversion Plan (subsection 3.10). Collector’s plan to develop, implement and maintain Recycling and Green Waste/Food Waste Diversion programs as mandated, and conduct on-going waste stream assessment. This plan shall also include Collector’s strategy for increasing Diversion and providing Recycling and Green Waste/Food Waste services to all customers. Collector’s plan for tracking Diversion, and increasing Recycling and Food Waste Composting.

(f) Contingency Emergency Plan (subsection 11.8). Collector’s plan to provide uninterrupted service during natural disasters, strikes or other emergencies described in subsection 11.8.

(g) Operations Plan. Collector’s timeline of implementing services throughout the Agreement.

ARTICLE 5. INDEMNIFICATIONS; INSURANCE; BONDS

5.1. INDEMNIFICATION

5.1.1. Collector shall indemnify, defend (with counsel selected by City) and hold harmless City, its officers, agents, employees and volunteers from any and all claims and losses whatsoever occurring or resulting to any and all Persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, any and all claims, lawsuits or actions arising from the awarding or execution of this Agreement, and for any and all claims and losses occurring or resulting to any Person, firm, corporation or property for damage, injury or death arising out of or connected with Collector’s or any of its officers, agents, employees or subcontractors’ performance of its obligations.
pursuant to this Agreement or arising from or attributable to any alleged breach of warranty of merchantability or fitness of purpose or other laws relating to product liability for Recyclables collected and processed, or Compost created, pursuant to this Agreement. Collector’s obligation to indemnify, defend and hold harmless City as stated herein above shall include, but not be limited to, paying all actual legal fees and cost incurred by legal counsel of City’s choice in representing City in connection with any such claims, losses, lawsuits or actions. The obligations of Collector pursuant to this subsection 5.1.1 are not limited by the coverage of any insurance maintained by Collector pursuant to Section 5.2. THIS PROVISION SHALL SURVIVE THE EXPIRATION OF THE PERIOD DURING WHICH SOLID WASTE, RECYCLABLES, AND GREEN WASTE/FOOD WASTE COLLECTION, PROCESSING AND DISPOSAL SERVICES ARE TO BE PROVIDED UNDER THIS AGREEMENT.

5.1.2. (a) Collector shall indemnify, defend (with counsel selected by City) and hold harmless City, its officers, agents, employees and volunteers from any and all claims and losses whatsoever occurring or resulting from:

(i) the repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or Hazardous Waste at any place where Collector or any of its officers, agents, employees or subcontractors transfers, stores, Processes, or Disposes of Solid Waste, Green Waste/Food Waste or Recyclables pursuant to this Agreement; or

(ii) its activities pursuant to this Agreement result in a release of hazardous substances into the environment.

(iii) the repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or Hazardous Waste at the Designated Disposal Site, regardless of whether or not Collector transferred, stored or disposed of Solid Waste or Recyclables from within the City at the Designated Disposal Site before or during the Term; or

(iv) its activities at the Designated Disposal Site, at any time before or during the Term of this Agreement, result in a release of hazardous substances into the environment.

(b) The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, codified at 42 U.S.C. Section 9607(e), and California Health and Safety Code Section 25364, to defend, protect, hold harmless and indemnify City. Collector’s obligation to indemnify, defend and hold harmless City as stated herein above shall include, but
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not be limited to, paying all actual legal fees and cost incurred by legal counsel of City’s choice in representing City in connection with any such claims, losses, lawsuits or actions. In connection with claims, liability, lawsuits or actions arising out of the Environmental Statutes, this clause shall not restrict any rights City has against Collector, including, but not limited to, the right of contribution, pursuant to the Environmental Statutes. The obligations of Collector pursuant to this subsection 5.1.2 are not limited by the coverage of any insurance maintained by Collector pursuant to Section 5.2. THIS PROVISION SHALL SURVIVE THE EXPIRATION OF THE PERIOD DURING WHICH SOLID WASTE, RECYCLABLES, AND GREEN WASTE/FOOD WASTE COLLECTION, PROCESSING AND DISPOSAL SERVICES ARE TO BE PROVIDED UNDER THIS AGREEMENT.

5.1.3. Collector agrees to indemnify, protect, defend (with counsel reasonably acceptable to City) and hold harmless City, its officers, agents and employees from compliance of the Act, against all fines or penalties imposed by the California Resource Recycling and Recovery (CalRecycle) in the event the Diversion, source reduction and Recycling goals of the Act are not met by City, or in the event Collector’s delays in providing information prevent City from submitting reports required by the Act in a timely manner. Collector further agrees to reimburse City its “pro rata share” of all costs and expenses attributable to any administrative proceedings (including but not limited to the administrative proceedings required by Public Resources Code Section 40059.1(c)(5)) or litigation relating to compliance with the Act, including reasonable attorneys’ fees. For purposes of this Section, Collector’s “pro rata share” shall be determined by apportioning such costs and expenses in accordance with the percentage of fault of Collector and City, as determined by the court or administrative body, or if none, as mutually agreed to by the parties. Collector’s obligation to indemnify and reimburse City pursuant to this Section is limited to the extent that such fines, penalties, costs or expenses result from activities, events, or omissions occurring during the period during which Collection Services are to be provided under this Agreement. The obligations of Collector pursuant to this subsection 5.1.3 are not limited by the coverage of any insurance maintained by Collector pursuant to Section 5.2. Collector’s indemnification hereunder is expressly conditioned upon: (a) implementation of the Construction and Demolition Recycling requirements of Chapter 9 of the City Code; and (b) City’s good faith efforts to implement its Source Reduction and Recycling Element, including any amendments thereto. THIS PROVISION SHALL SURVIVE THE EXPIRATION OF THE PERIOD DURING WHICH SOLID WASTE, RECYCLABLES, AND GREEN WASTE/FOOD WASTE COLLECTION, PROCESSING AND DISPOSAL SERVICES ARE TO BE PROVIDED UNDER THIS AGREEMENT.
5.2. INSURANCE

5.2.1. General.

(a) Collector shall procure and maintain for the Term of this Agreement insurance against claims for injuries to Persons, including death, or damages to property which may arise from or in connection with the performance of the work hereunder by Collector, its agents, representatives, employees or subcontractors. Collector shall not perform any work during any period when Collector is not covered by insurance as required in this Section. In the event Collector does any work while not covered by the insurance required by this Section, City may immediately terminate this Agreement without providing the seven-day (7) written notice required by Section 11.1.

(b) General Liability, Errors & Omissions and Pollution and/or Environmental Impairment Liability coverage should be maintained for a minimum of five (5) years after contract completion. The maintenance of claims made against any insurance required of Collector shall not be considered a waiver by City of any other claim or liabilities it may have against Collector.

5.2.2. Minimum Scope of Insurance. Coverage shall be at least as broad as:

(a) Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001).

(b) Insurance Services Office form number CA 0001 (Ed. 1/78), covering Automobile Liability, code 1 (any auto) and endorsement CA 0025 (mobile equipment, pollution, contractual liability). The Automobile Liability policy shall be endorsed to delete the Pollution and/or the Asbestos exclusion and add the Motor Carrier Act endorsement (MCS-90), TL 1005, TL 1007 and/or other endorsements required by federal or state authorities.

(c) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance, each in the amount of $1,000,000 per accident for bodily injury or disease.

(d) Pollution and/or Environmental Impairment Liability and/or Errors & Omissions.

5.2.3. Minimum Limits of Insurance. Collector shall maintain limits no less than:

(a) General Liability: $5,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply
separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(b) Automobile Liability: $3,000,000 combined single limit per accident for bodily injury and property damage.

(c) Workers’ Compensation and Employer’s Liability: $1,000,000 each accident, $1,000,000 policy limit bodily injury or disease, $1,000,000 each employee bodily injury by disease.

(d) Pollution and/or Environmental Impairment Liability and/or Errors and Omissions: $3,000,000 each occurrence/$10,000,000 policy aggregate covering liability arising from the release of waste materials and/or irritants, contaminants or pollutants. Collector shall ensure that such coverage shall, if commercially available, without involvement of City, automatically broaden in its form of coverage to include legislated changes in the definition of waste materials and/or irritants, contaminants or pollutants. The policy shall stipulate this insurance is primary and no other insurance carried by City will be called upon to contribute to a loss suffered by Collector hereunder and waive subrogation against City and other additional insureds.

5.2.4. Deductible and Self-Insured Retentions. Any deductibles, self-insured retentions or self-insurance programs must be declared to and approved by City, which approval shall not be unreasonably withheld. Collector shall provide evidence satisfactory to the City Manager guaranteeing payment of losses and related investigations, claim administration and defense expenses. Other Insurance Provisions.

(a) All Coverages. Each insurance policy required by this Section 5.2 shall be occurrence-based or an alternate form as approved by the City Manager, and shall contain, or be endorsed to contain, the following provisions:

(i) City, its officers, officials, employees and volunteers are to be covered as additional on the general liability and automobile liability policies.

(ii) Collector’s insurance coverage shall be primary insurance as respects to City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, agents or volunteers shall be excess of Collector’s insurance and shall not contribute with it.

(iii) Coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days’ prior written notice by certified mail, return receipt requested, has been given to City.
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(iv) Collector’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except for the limits of the insurer’s liability.

(b) Worker’s Compensation and Employers’ Liability Coverage. The insurer shall agree to waive all rights of subrogation against City, its officers, officials, employees and volunteers for losses arising from work performed by Collector for City.

5.2.5. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII if admitted. If Pollution and/or Environmental Impairment and/or Errors and Omissions coverages are not available from an “Admitted” insurer, a non-admitted insurance company may write the coverage, with City’s permission. A non-admitted company should have an A.M. Best’s rating of A: X or higher.

5.2.6. Verification of Coverage. Collector shall furnish City with endorsements effecting coverage required by this Section. The endorsements are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by City, unless the insurer will not use City’s forms. In that event, as an alternative to City’s forms, the Collector’s insurer may provide complete copies of all required insurance policies, including endorsements affecting the coverage required by these specifications. All endorsements are to be received and approved by the City Manager before work commences.

5.2.7. Subcontractors. Collector shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

5.2.8. Other Provisions. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to City, its officers, officials, agents, employees and volunteers.

5.3. FAITHFUL PERFORMANCE BOND

Collector shall file with City a bond, payable to City, securing Collector’s faithful performance of each and every one of its obligations under this Agreement. The principal sum of the bond shall be One Million Dollars ($1,000,000). The bond shall be executed as surety by a corporation authorized to issue surety bonds in the State of California, with a financial condition and record of service satisfactory to the City Manager. The bond shall be in a form specified by the City Manager. Alternatively, Collector may deposit a letter of credit or open a certificate of deposit in the name of City to be held to secure Collector’s faithful performance. The performance bond shall be maintained in force for the duration of this Agreement. Collector shall pay the premium for the bond.
ARTICLE 6. COMPENSATION AND RATES

6.1. RATES

The Rates contained in the Schedule of Maximum Permissible Rates, as they may be adjusted from time to time in accordance with this Agreement, provide the maximum compensation to Collector for services pursuant to this Agreement. The Schedule of Maximum Rates are set by the Collector and approved by the City. The Rates contained in the Schedule of Maximum Permissible Rates become effective January 1, 2012, irrespective of whether or not the services required by this Agreement are implemented and fully operational on or before that date.

Under this Agreement, Collector shall have the right and obligation to charge and collect from Customers the Rates set by Collector, which Rates shall not exceed the City approved Schedule of Maximum Permissible Rates, which are contained in Exhibit "A".

6.2. ANNUAL ADJUSTMENT OF RATES

6.2.1. Subject to the terms herein, Collector may request one Rate adjustment annually. Except as set forth in in subsection 6.2.2, paragraph (b) and in subsection 6.3 below, the City Manager shall approve the Rate adjustment where such adjustment would result in no more than a four percent (4%) Rate increase for any given service level. In the event any annual adjustments would result in a greater than four percent (4%) Rate increase for any given service level, Collector shall receive an adjustment in Rates of greater than four percent (4%) only to the extent that Collector can demonstrate to the satisfaction of the City Manager that Collector's actual CPI-influenced costs increased more than four percent (4%) during the previous twelve months. At the discretion of the City Manager, annual adjustments of greater than four percent (4%) may be subject to approval by the City Council.

6.2.2. The request and supporting data for each annual adjustment of Rates shall be submitted to the City Manager by Collector on or before September 1 of each year, commencing September 1, 2012. Each adjustment is to be acted upon by the City Manager by October 1 of each year; and effective (to the extent approved) on each subsequent January 1. The annual adjustments of Rates shall be calculated as follows:

(a) Commencing for Rate Year 2013, and for subsequent years there after, the Rates shall be increased by a minimum of 2.5% in all service levels, or the maximum amounts set forth in paragraphs (b) and (c) below, whichever is greater.

(b) For Rate Years 2013 and 2014, Collector may request an adjustment, and Rates shall be adjusted in an amount not to exceed five (5) percent for any given service level.
(c) During the Rate Year 2015 and for subsequent years thereafter, the Rates shall be adjusted based on one hundred (100) percent of the 12 month average change in the CPI (Garbage and Trash Collection Index Series ID CUUROOOGSEH02) for the most recent 12 month period published immediately prior to the Rate application.

6.2.3. If the CPI is discontinued or revised during the Term by the United States Department of Labor, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or revised.

6.3. SPECIAL RATE REVIEW

6.3.1. Collector is entitled to apply to City for consideration of a “Special Rate Review”, or City may initiate such a review, upon the occurrence of any of the events set forth in subsection 6.3.2. However, Collector shall seek no more than a single annual adjustment to become effective at the time of the CPI adjustment described in Section 6.2 Collector must submit its request for a Special Rate Review and complete cost and operational data in a form and manner specified by City no later than July 1 of the year prior to the proposed effective date of any Rate adjustment. Each adjustment is to be acted upon by the City Manager by October 1 of each year. A Special Rate Review may, at the City Manager’s sole discretion, occur in conjunction with a performance review pursuant to Section 10.4.

6.3.2. Collector is entitled to apply to City for consideration of a Special Rate Review, or City may initiate such a review, should one or more of the following occur, and for no other reason whatsoever:

(a) Any Change in Law that was not reasonably known to Collector before the date of this Agreement, that Collector substantiates would result in a direct increase in Collector’s cost of providing Collection Services to City.

(b) City pursuant to Section 3.24 mandates changes to operations or modifications of services, or new services.

(c) An increase in the Collector Fee in excess of the amounts set forth in Section 7.2.1.

(d) Any of the events set forth in subsection 11.8.1.

(e) Collector receives a grant or other financial assistance that reduces the cost to Collector of providing any of the services required by this Agreement, including but not limited to the costs operating the Household Hazardous Waste Program or implementing the LNG-powered Collection fleet.
6.3.3. Should Collector request a Special Rate Review, City shall have the right to review any or all costs associated with Collector's services under this Agreement. In the event either party requests a modification of a Collection Service or other service provided pursuant to this Agreement, or additional services not currently included within this Agreement, Collector shall furnish City with complete, projected operational and cost data for the modified or additional service. City reserves the right to require that Collector supply any additional cost data or other information it may reasonably need to ascertain the appropriate Rate. City further reserves the right to employ qualified independent consulting services to review data submitted by Collector. For Collector-initiated proposals for service modifications or additional services, Collector shall defray City consultant and attorney expenses relating to the review.

6.3.4. Collector shall bear the burden of justifying to City by Substantial Evidence any entitlement to a Rate increase under this Section. If the City Manager determines that Collector has not met its burden, Collector may, before seeking legal action pursuant to Section 6.4, request another hearing to produce additional evidence. In his or her sole discretion, the City Manager may permit the additional hearing.

6.3.5. Based on evidence Collector submits, and in his or her sole discretion, the City Manager may grant some, all or none of the requested increase. At the discretion of the City Manager, any adjustments pursuant to this Section 6.3 resulting in a greater than four percent (4%) Rate increase for any given service level may be subject to approval by the City Council.

6.4. RESOLUTION OF DISPUTES REGARDING SPECIAL RATE REVIEWS

6.4.1 This Section pertains only to Special Rate Reviews requested by Collector under the provisions of Section 6.3. If City rejects a special Rate adjustment requested by Collector, grants a Rate increase less than what was requested by Collector, or fails to act in a timely manner upon all or any part of Collector’s special Rate adjustment application, then Collector’s sole remedy against City is to file a petition for writ of mandate pursuant to Code of Civil Procedure Section 1085. Collector expressly agrees that it does not have a cause for action for damages against City.

6.4.2 If Collector requests a special Rate adjustment as a result of an increase in the Collector Fee pursuant to Section 6.3.2(c), and City rejects the special Rate adjustment requested by Collector, or grants a Rate increase less than what was requested by Collector, the City or the Collector may be submit such disagreement to a mutually agreed upon third party mediator. The results of such mediation shall be presented to the City Council for City Council approval or disapproval of the disputed increase in the Collector Fee. Any dispute over the decision of the City Council shall be subject to the procedures in paragraph (a) of this Section 6.4.
6.5. NOTICE OF RATE CHANGES

Collector shall provide all Subscribers for whom Collector performs billing services with advance written notice of Rate changes, in the form of a notice printed on the bill or a bill insert at least thirty (30) days prior to the effective date of such change.

6.6. DELINQUENT ACCOUNTS

6.6.1. Collector shall make diligent, good faith efforts to collect delinquent payments from Subscribers. Collector shall reconcile payments made by Subscribers to amounts billed to such Subscribers. City is not in any way responsible to assist Collector in collecting delinquent accounts, or in any way responsible to compensate Collector for revenues lost due to delinquent accounts.

6.6.2. For Residential Premises Subscribers, Collector shall send a first delinquency notice as part of the bimonthly billing cycle immediately following the billing cycle for which the Subscriber is delinquent. If the delinquent Residential Premises Subscriber has not paid in full within thirty (30) days of the mailing date of the first delinquency notice, Collector shall send a final delinquency notice to the delinquent Residential Premises Subscriber clearly indicating that service will be suspended in thirty (30) days from the final delinquency notice mailing date. A copy of all final delinquency notices shall be concurrently sent to the City Manager. One (1) week prior to suspending service to the delinquent Residential Premises Subscriber, Collector shall notify City Manager by telephone and writing of such intent. Each of the two (2) delinquency notices may include a 10% late payment fee. If service is suspended to a Residential Premises, the Collector may only assess (1) delinquent amount owed before the suspension date, (2) all accrued late payment fees on the delinquent account, and (3) a service reinstatement fee as specified in Exhibit “A”.

6.6.3. For Commercial/Industrial Premises Subscribers, Collector shall send a first delinquency notice as part of the monthly billing cycle immediately following the billing cycle for which the Subscriber is delinquent. If the delinquent Commercial/Industrial Premises Subscriber has not paid in full within thirty (30) days of the mailing date of the first delinquency notice, Collector may suspend service to the delinquent Commercial/Industrial Premises account, but only if, one week prior to suspending service to the delinquent Commercial/Industrial Premises account, Collector sends a final delinquency notice to the delinquent Commercial/Industrial Subscriber clearly indicating that service will be suspended in seven (7) calendar days from the final delinquency notice date, with a copy to the City Manager. Each of the two (2) delinquency notices may include a 10% late payment fee. If service is suspended to a
Commercial/Industrial Premises account, the Collector may only assess the delinquent amount owed before the suspension date plus all current late payment fees.

**ARTICLE 7. BILLING, COLLECTION AND REMITTANCE; COLLECTOR FEE**

**7.1. BILLING**

7.1.1. Collector shall bill Residential Premises on a bimonthly basis, and bill Commercial/Industrial Premises on a monthly basis, for services provided under this Agreement. Collector may bill for Collection Services up to one month in advance of the period for which services will be rendered. Collector shall not charge: (a) any amount in excess of the maximum permissible Rates for any services required or permitted to be performed by the terms of this Agreement; or (b) any amount for any services required or permitted to be performed by the terms of this Agreement for which a Rate is not listed on the Schedule of Maximum Permissible Rates. The maximum permissible Rates are those set forth in the Schedule of Maximum Permissible Rates, as such schedule may be revised pursuant to the procedures set forth in Article 6.

7.1.2. Collector may levy Special Charges in an amount that does not exceed the applicable Rate provided in the Schedule of Maximum Permissible Rates. Special Charges shall not be levied without prior notification to the Subscriber.

7.1.3. Collector may not bill for:

(a) Residential Premises Cart exchanges specified in Section 3.4.2(a) as being free;

(b) additional Recycling Containers to Residential Premises pursuant to Section 3.4.2(b);

(c) the free wheel-out service for eligible Subscribers specified in Section 3.5;

(d) the curbside Bulky Waste program services specified in Section 3.6.1 (excluding Freon removal);

(e) the Holiday tree Collection specified in Section 3.7;

(f) the Collection Services for School Facilities and City Facilities specified in Sections 3.10 and 3.11 (subject to Collector’s rights under Section 3.10.3);

(g) the Household Hazardous Waste program services specified in Section 3.15;

(h) the Collection of Recyclables from Commercial/Industrial Premises;
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(i) the public education services specified in Section 3.19;

(j) street sweeping;

(k) or any other service which is described in this Agreement as being for no extra compensation to Collector.

7.2. **COLLECTOR FEE**

7.2.1. In consideration of the rights granted Collector in this Agreement, Collector shall pay to City a Collector Fee, with no increase to customer rates, that consists of a percentage of the sum of the Gross Rate Revenues received by Collector for providing Collection Services pursuant to this Agreement to Residential and Commercial/Industrial Premises. Collector shall remit the Collector Fee as part of the Monthly Remittance specified in Section 7.3. The Collector Fee percentage will be as follows:

(a) Ten percent (10%) beginning on the Commencement Date and ending on December 31, 2011;

(b) Eleven percent (11%) beginning January 1, 2012 and ending on December 31, 2012;

(c) Twelve percent (12%) beginning January 1, 2013 and ending on December 31, 2013; and

(d) Thirteen percent (13%) beginning January 1, 2014 and on January 1 for the remainder of the Term, including any extension of the Term.

7.2.2. City reserves the right to increase the Collector Fee at any time during the Term. Nothing herein shall excuse Collector from paying City business license fees and other permit fees required to be paid pursuant to City, State or Federal Law.

7.3. **COLLECTOR BILLING STATEMENT AND REMITTANCE**

7.3.1. Collector shall prepare and provide to City a monthly statement and a Monthly Remittance by the 15th day following each month of Collection Service. The monthly statement, which shall be in the form determined by the City Manager, shall set forth the basis and calculations used for computing the amount due, in the following format:

Gross Rate Revenues received by Collector for the current billing period (including number of accounts in each Rate class, and total number for each type of special charge)
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Proceeds for the previous period from the sale of Recyclables to the Collector pursuant to this Agreement, including receipt of California Redemption Values from Recyclables generated in the City

Proceeds from any State reimbursement for operation of a curbside Recycling program in the City

Revenue collected during the previous service period from Collection of Construction and Demolition Waste

Collector Fee (%)

Collector then calculates Monthly Remittance due to City as follows:

Collector Fee payment

Unpaid liquidated damages assessed by City against Collector

Monthly Remittance to City

7.3.2. Collector shall provide a brief summary of the number and duration of delinquent accounts by Subscriber class with each Monthly Remittance submitted to City pursuant to this Section 7.3.

7.4. DISPUTES REGARDING REMITTANCES

7.4.1. No acceptance of any payment by City shall be construed as an accord that the amount is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim City may have against Collector for any additional sums payable under the provisions of this Agreement. All amounts paid shall be subject to independent audit and recomputation by City. If, after audit, such recomputation indicates a Collector Fee underpayment, Collector shall pay to City the amount of the underpayment within ten days of receipt of written notice from City that such is the case. In addition, Collector shall pay interest on any underpayment at the highest Rate allowed by law. Such interest shall commence accruing on the date the underpayment would have originally been due. If, after audit, such recomputation indicates a Collector Fee underpayment of more than two and one half percent (2.5%), Collector shall reimburse City for all reasonable costs and expenses incurred in connection with the audit and recomputation, within ten days of receipt of written notice from City that such is the case. If, after audit, such recomputation indicates a Collector Fee overpayment, City shall notify Collector in writing of the amount of the overpayment, less costs and expenses incurred in connection with the audit and recomputation. Collector may offset the payment or payments (as appropriate) next due following receipt of such notice by the amount specified therein. In case of dispute between City and Collector regarding any amounts due, Collector shall pay the amount claimed by City as due and notify City in writing at the time of
payment as to any portion that is paid under protest, specifying the basis of its claim of overpayment.

7.4.2. If either party disputes any amount remitted pursuant to this Article, the disputing party shall provide the other party with a written objection within fifteen (15) days of receipt of the remittance, indicating the reasons for the disputing party’s objection to or disagreement with such amount. If the parties are not able to resolve such dispute within thirty (30) days after the disputing party’s objection, either party may pursue further legal action pursuant to Section 11.5. Nothing contained in this Section shall limit City or any authorized officer of City or any other governmental agency from raising a further objection to any amount billed by Collector as a result of an audit conducted pursuant to Section 8.4.

7.5. COMMUNITY ENHANCEMENT FEE

The Collector shall pay the City a community enhancement fee of $600,000 divided into two (2) payments of $300,000. The 1st payment to the City shall be due within thirty (30) days of the execution of this Agreement and the last payment shall be due no later than March 1, 2012.

7.6. VEHICLE IMPACT FEE

The Collector shall pay the City a vehicle impact fee of $150,000 annually as payment by Collector for normal wear and tear to City streets. The 1st payment to the City shall be due January 1, 2013 and subsequent payments will be due on January 1 annually thereafter. The vehicle impact fee will be adjusted annually on October 1st by 100% of the percentage change in the CPI for the most recently published month and the same month of the previous year, unless otherwise changed by City Council action.

ARTICLE 8. FINANCIAL RECORD KEEPING AND REPORTING REQUIREMENTS

8.1. ACCOUNTING AND RECORDS

Collector shall maintain in its office within the City full, complete and separate financial, statistical and accounting records, pertaining to cash, billing, Disposal, and Processing transactions for City, prepared on a cash basis, and otherwise in accordance with generally accepted accounting principles. Such records shall be subject to audit and inspection. The Gross Rate Revenues derived from the provision of Collection Services, whether such services are performed by Collector or by a subcontractor or subcontractors, shall be recorded as revenues in the accounts of Collector. Collector shall maintain and preserve all cash, billing, Disposal, and Processing records for a period of not less than three (3) years following the close of each of Collector’s fiscal years.
8.2. **RIGHT TO INSPECT RECORDS**

City and its authorized officers, agents or employees, shall at any reasonable time have the right to review and inspect Collector's records and enter Collector's premises for the purposes of such review. City shall have the right to inspect or review Disposal fee charges, compliance with service classifications, income tax returns, payroll tax reports, route maps, Subscriber lists, specific documents or records required pursuant to this Agreement, or any other similar records or reports of Collector that the City Manager shall deem, in his or her sole discretion, necessary to evaluate financial data or reports.

8.3. **ANNUAL FINANCIAL STATEMENTS**

Collector shall submit financial statements that clearly show financial information only for Collection Services provided under this Agreement and shall not include any financial information from any and all other Collector operations. Statements shall provide information in a manner that is necessary and sufficient for reconciling any financial determinations related to this Agreement, including but not limited to balance sheet, income and expense statement, statement of cash flow, and related consolidated statement of operations, Subscriber revenues, Gross Rate Revenues, Collector Fee, Recycling Revenues, liquidated damages, and Monthly Remittance amounts. All such statements and reports shall be submitted no later than four (4) months following the end of Collector's fiscal year (June 30). Upon request, City shall have the right to review and approve Collector's proposed annual report format.

8.4. **ANNUAL AUDIT OF BILLINGS**

If warranted by City's review of the audited or compiled financial reports prepared by Collector, City may, in its sole discretion, retain an independent certified public accountant to conduct an independent audit of billings of Subscriber accounts. The independent audit shall be conducted to determine and verify that each Subscriber is receiving the level of service for which they are billed by examining a statistically significant sample of Subscribers. Collector shall cooperate fully with City and its agents in the performance of the independent audit, including providing full and timely access to all required records, data and other information. Collector shall bear the reasonable cost of such an independent audit.

**ARTICLE 9. OTHER RECORD KEEPING AND REPORTING REQUIREMENTS**

9.1. **RECORD KEEPING**

9.1.1. Collector shall maintain in its office within the City records of the quantities of (i) Solid Waste collected and disposed under the terms of this Agreement, (ii) Recyclables,
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type, collected, purchased, processed, sold, donated or given for no compensation, and Residue disposed, and (iii) Green Waste/Food Waste collected, received, purchased, processed, sold, donated or given for no compensation, and Residue disposed. The records shall be subject to the inspection provisions provided in Section 8.2.

9.1.2. Collector shall maintain an auditable journal recording each instance that Solid Waste, Green Waste/Food Waste or Recyclables are not collected in compliance with the terms of this Agreement or applicable ordinance or regulation. The journal shall include the reason for non-collection, including but not limited to instances of Hazardous Waste found in the Solid Waste, Green Waste/Food Waste or Recyclables. The journal shall be subject to the inspection provisions provided in Section 8.2.

9.1.3. Collector’s refusal or failure to file (after written notice requesting Collector to do so) any of the reports required, or to provide required information to City, or the inclusion of any false or misleading statement or representation by Collector in such report, shall be deemed a material breach of this Agreement, and shall subject Collector to all remedies, legal or equitable, which are available to City under this Agreement or otherwise.

9.1.4. All reports and records required under this or any other Article shall be furnished at the sole expense of Collector.

9.2. MONTHLY DOCUMENTS

Collector shall compile and keep the following documents by month, and shall deliver the documents to the City Manager within ten (10) days of a request by the City Manager:

(a) copies of Disposal facility weight tickets/invoices which indicate the net amount of all Solid Waste disposed during the reporting month, typical fees paid, and where the waste was disposed of, by route; and

(b) copies of facility weight tickets/invoices, which indicate the net amount of all Recyclables and Green Waste/Food Waste, diverted from Disposal facilities during the reporting month, typical fees paid, and where the Recyclables and Green Waste/Food Waste were delivered, by route.

9.3. QUARTERLY REPORTING

Collector shall compile and keep the following information for each month during the quarter and shall deliver a written report thereon, signed by an officer of Collector, to the City Manager on a quarterly basis. Quarterly reports shall be submitted no later than the 25th of the month immediately following the end of the quarter. Quarterly reports shall
be submitted in hard copy, and shall be also be provided electronically in a format and using software acceptable to City.

(a) Solid Waste Data. The average number of daily set-outs, Tons collected and delivered to the Designated Disposal Site, number of service accounts and number of Solid Waste Containers distributed by size and Subscriber for each separate Subscriber class and for each free facility service.

(b) Recycling Data. The daily average of gross Tons collected by material type and by route for Residential Premises, Commercial/Industrial Premises, and for facilities receiving free service; the average number of daily set-outs by route; the total set-outs and Tonnages, by material type and by route for the quarter; the average participation rates over the quarter relative to the total number of Subscribers in terms of weekly set-out counts; quarterly totals of Recyclables processed and sold including facility name and location, average price received per Ton and total Recycling Revenue received for the quarter by material type (and grade where appropriate); any quantities, by material type, donated or otherwise disbursed without compensation; number of Recyclables Containers distributed by size and Subscriber type; quantities, by material type, collected at Collector operated buy-back and drop-off Recycling operations used by Fairfield residents; and quarterly totals and location for Residue disposed.

(c) Green Waste/Food Waste Data. The average daily gross Tons collected by route; the average daily number of set-outs by route; the average participation rates over the quarter relative to the total number of Subscribers in terms of weekly set-out counts; the number of Green Waste/Food Waste Containers distributed by size and Subscriber type; and quarterly totals and location for Residue disposed.

(d) Household Hazardous Waste Data. Data on Household Hazardous Waste types and quantities collected through this Agreement in a form consistent with California Resource Recycling and Recovery Form 303 and including addresses of all City residents using the Household Hazardous Waste program during the reporting period.

(e) Complaint Log. A copy of the Complaint Log maintained pursuant to Section 3.21 of this Agreement, including a summary of the type and number of complaints.
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(f) Problems and Actions Taken. Narrative summary of problems encountered with Collection, Disposal, and Processing activities and actions taken; report shall indicate the type and number of notification tags left at Subscriber accounts, instances of property damage or injury, poaching or scavenging, significant changes in operation, market factors, publicity conducted, or needs for publicity; description of processed material loads rejected for sale, reason for rejection and disposition of load after rejection.

(g) Disposal Summaries. Summaries of the net amount of all Solid Waste disposed during the reporting period, typical fees paid, and where the waste was disposed of, by residential and commercial service sectors. City may review all supporting documentation (which Collector shall retain) for Collector’s summaries on Collector’s business premises after giving 48 hours written notice of such a request.

(h) Market Price. Average market prices for each material sold, and Processing charges or acceptance fees for Green Waste/Food Waste, Recyclables, and other applicable materials.

(i) Street Sweeping Daily Logs. Curb miles swept in Residential and Commercial/Industrial Areas and Street Sweeping Fines collected, including leaf season.

9.4. ANNUAL REPORTING

Annual reports shall be submitted no later than March 1st for the previous calendar year with the first annual report due on or before March 1, 2012. Annual reports shall be submitted in hard copy, and shall be also be provided electronically in a format and using software acceptable to City. The annual report shall summarize the numerical information contained in the quarterly reports. In addition, the annual reports shall include:

(a) A summary of the prior year’s monthly Collector Fee payments.

(b) Account data including the number of accounts, account names and addresses of Collection locations per each service category.

(c) An updated complete inventory of Collection and major Processing equipment including stationary, rolling stock and Collection Containers by type and size.

(d) Public education and information activities undertaken during the year, including distribution of bill inserts, non-collection notification tags, and community information and events, tours and other activities related to the
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provision of Collection Services. The report shall discuss the impact of these activities on Recycling and Green Waste/Food Waste participation and amounts collected.

(e) An analysis of Residential and Commercial Recycling Collection, Processing and marketing issues or conditions (such as participation, setouts, contamination, etc.) and possible solutions.

(f) As necessary, recommendations for program modifications or new programs including cost estimates to meet Diversion mandates specified in the Act.

(g) A list of Collector’s officers and members of its board of directors.

(h) A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in Collector and any subsidiaries.

9.5. ADVERSE INFORMATION

9.5.1. Collector shall provide City two (2) copies of all reports or other material relating to this Agreement or the Collection Services which contains information that might be adverse to Collector, City, one or more Subscribers, or the performance of this Agreement, that are submitted by Collector to the United States Environmental Protection Agency (EPA), the Department of Resource Recycling and Recovery (CalRecycle), or any other federal, State, or local agency. Copies shall be submitted to City simultaneously with Collector’s filing of such matter with those agencies. Collector’s routine correspondence to those agencies need not be automatically submitted to City, but shall be made available to City upon written request.

9.5.2. Collector shall submit to City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Collector to, as well as copies of all decisions, correspondence and actions by, any federal, State and local courts, regulatory agencies and other government bodies relating specifically to Collector’s performance of services pursuant to this Agreement. Any confidential data exempt from public disclosure under the California Public Records Act, as reasonably determined by the City Manager in consultation with the City Attorney, shall be retained in confidence by City and its authorized agents and shall not be made available for public inspection unless otherwise ordered by a court of law.

9.6. ADDITIONAL REPORTING

Collector shall furnish City with any additional reports as may reasonably be required that sets forth all information required by City including but not limited to any Recycling, Green Waste/Food Waste, or Household Hazardous Waste activities. These reports shall
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be prepared and submitted in the form specified by City. Collector shall bear the cost of such additional reporting.

9.7. OTHER RELATED REQUIREMENTS

9.7.1. Waste Characterization Studies. Collector shall cooperate with and assist City in the performance, if and as needed, of periodic waste characterization studies.

9.7.2. Collection Monitoring. Collector shall monitor its Collection of Recyclables and Green Waste/Food Waste to identify occurrences of, and to prevent, contamination of Recyclables and Green Waste/Food Waste. Collector shall allow a Person designated by the City Manager to ride with Collector’s Collection vehicles on any route or routes. The City Manager will inform Collector at least one (1) week in advance of the date of route monitoring.

ARTICLE 10. INSPECTION, REVIEW, AND AUDIT OF FACILITIES AND OPERATIONS

10.1. INSPECTION BY CITY

The City Manager shall have the right to observe and review Collector’s operations and equipment, and to enter Collector’s premises for the purposes of such observations and review at any time without prior notification.

10.2. ROUTE AUDITS

In order to verify reports of the amounts of Solid Waste, Green Waste/Food Waste and Recyclables collected and disposed of by Collector from each designated route, as well as the street sweeping routes, City shall be entitled to conduct an audit of any designated route upon demand. City will make the audit demand by telephone 48 hours prior to the regularly scheduled Collection day of the designated route. Telephone notice shall be followed by written notice and facsimile transmission (Fax) to Collector. The audit demand shall entitle City to conduct a physical route audit of any or all designated routes for the purposes of verifying Subscribers served, Disposal amounts collected, and any other information as may be deemed necessary and beneficial to City so long as the audit activity does not interfere with Collector’s personnel who are servicing the route being audited. The standard route audit will include, but is not limited to:

(a) certification that the Collection vehicle is empty when beginning the route;

(b) verification of the addresses which are served by the designated Collection vehicle;
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(c) verification of the Designated Disposal Site or other facility to which the Solid Waste, Green Waste/Food Waste or Recyclables are taken;

(d) verification of the quantity of Solid Waste, Green Waste/Food Waste and Recyclables in Tons collected from the designated route; and

(e) verification that the street sweepers are covering their routes on their designated days and frequencies.

10.3. PERIODIC REVIEW

City will periodically review the performance of Collector based on Subscriber complaints, timely payment of sums due, statistical reporting, program progress, etc. This review will be conveyed to the Council, and Collector may review the report and submit its own statement.

10.4. PERFORMANCE REVIEW

10.4.1. Performance Review. The City requires that during 2015 and if applicable, 2019 of the Term, a performance review be completed pursuant to the terms and conditions of this subsection 11.4.2. A qualified firm under contract to City shall perform the performance review. City, in its sole discretion, shall select the qualified firm to conduct the performance review but with input from the Collector.

10.4.2. The costs of the performance review shall be equally shared by Collector and City. However, if the performance review finds a material breach or default in Collector’s performance, Collector shall in a timely manner reimburse City the total cost of the performance review within ten (10) days of written demand from City.

10.4.3. The performance review shall address all appropriate areas, including, but not limited to, the following areas, and shall provide specific recommendations, as appropriate, for improvement in each area:

(a) Compliance with the Performance Requirements of Exhibit “B”.

(b) Compliance with the terms of this Agreement and Applicable Law.

(c) Overall organizational structure and management systems and procedures.

(d) Efficiency of Collection operations and street sweeping, including an analysis of routes, schedules and the impact to Agreement requirements.
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(e) Staffing practices, including the deployment of management and supervisory personnel.

(f) Financial management practices, including Collector's billing and Collection system and its policies with regard to uncollected Subscriber accounts.

(g) Personnel management practices, including compensation policies and the resolution of employee grievances.

(h) Employee job and safety training, and management of Hazardous Waste.

(i) Procedures for receiving and resolving Subscriber complaints and concerns.

(j) Procedures for the acquisition, maintenance, safety check, and replacement of equipment.

(k) Utilization and management of facilities, equipment and personnel.

(l) Comparison with practices of businesses deemed similar to Collector.

10.4.4. Collector shall cooperate fully with the performance review, and provide within thirty (30) days of request, all operational, financial and other information deemed reasonable or convenient by City or the firm for purposes of conducting the performance review. Collector’s failure to cooperate or provide all requested information shall be considered an event of default.

10.4.5. In conjunction with any performance review, City reserves the right to require changes to Collector’s operations, which City determines to be necessary or appropriate by reason of the findings or results of the performance review to carry out the intent of the terms and conditions of this Agreement. City may not, pursuant to this subsection 10.4.5, require that lower Rates for Collection Services be charged.

ARTICLE 11. BREACH AND TERMINATION

11.1. DEFAULT; NOTICE

11.1.1. All terms and specifications of this Agreement are material and binding, and failure to perform any portion of the work described herein shall be considered a breach of this Agreement. Subject to the extensions of time set forth in Section 11.8, and to the notice provisions of subsection 11.1.2, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The party who so fails or delays must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence during the cure period.
11.1.2. Neither party may exercise any rights or remedies upon a default by the other party, unless and until such default continues for a period of seven (7) days after written notice thereof from the non-defaulting party. If the nature of the default is such that more than seven (7) days are reasonably required for its cure, then the defaulting party shall not be deemed to be in default if it has commenced a cure within the seven (7) day period and thereafter diligently prosecutes such cure to completion within thirty (30) days after receipt of written notice thereof. No such additional time to cure shall be allowed for failure to pay any amount due to City under this Agreement, or if the nature of the default is such that the health, welfare, or safety of the public is endangered as determined by the City Manager. The notice of default shall specify the default complained of by the injured party. In the event of any conflict between the cure periods set forth in this subsection 11.1.2 and any shorter cure periods set forth in an applicable Section of this Agreement, the shorter period shall control.

11.1.3. Delay in giving a notice of default shall not constitute a waiver of any default nor shall it change the time of default. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, nor deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

11.2. NOTICE BY CITY; RESPONSE; RESOLUTION; APPEAL

11.2.1. Notice; Response. If the City Manager determines that Collector’s performance pursuant to this Agreement may not be in conformity with the provisions of this Agreement, the Act (including, but not limited to requirements for Diversion, source reduction and Recycling as to the waste stream subject to this Agreement), or any other Applicable Law, including but not limited to, the laws governing transfer, storage or Disposal of Solid Waste or Hazardous Waste, the City Manager may advise Collector in writing of such suspected default in accordance with subsection 11.1.2, specifying the default in reasonable detail (the “Notice of Default”), and including the time within which Collector is to cure the default and respond, in accordance with subsection 11.1.2. Collector may request additional time to cure the default; City shall not unreasonably deny any such request.

11.2.2. Review by City Manager: Notice of Appeal.

(a) The City Manager shall review any written response from Collector and decide the matter or refer the matter to the City Council for consideration pursuant to this Section. If the City Manager’s decision is adverse to Collector, the City Manager may order remedial actions to cure any deficiencies, or invoke any other remedy in accordance with this Agreement and, in the event the City Manager determines that there has been a material
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breach and that termination is the appropriate remedy, terminate this Agreement. The City Manager shall promptly inform Collector of the City Manager’s decision. In the event the decision is adverse to Collector, the City Manager shall inform Collector, in writing, of the specific facts found and evidence relied on, and the legal basis in provisions of this Agreement or other laws, for the City Manager’s decision and any remedial action taken or ordered. An adverse decision by the City Manager shall be final and binding on Collector unless Collector files a “Notice of Appeal” with the City Clerk (with copies to the City Manager and City Attorney) within seven (7) days of receipt of the notification of the adverse decision by the City Manager.

(b) In any “Notice of Appeal” to the City Council, Collector shall state all of its factual and legal contentions, citing provisions of this Agreement or other laws to support its contentions. Within twenty-one (21) days of the filing of the Notice of Appeal with the City Clerk, Collector shall deliver to the City Clerk three (3) copies of all relevant affidavits, documents, photographs and videotapes that Collector may choose to submit.

11.2.3. City Council Hearing. If a matter is referred by the City Manager to the City Council, or an adverse decision of the City Manager is appealed to the City Council by Collector, the City Clerk shall set the matter for a hearing before the City Council. The City Clerk shall give Collector thirty (30) days written notice of the time and place of the hearing. At the hearing, the City Council shall consider the administrative record, including the following:

(a) A staff report by the City Manager, summarizing the proceedings to date and outlining the City Council’s options;

(b) The City Manager’s written Notice of Default;

(c) Collector’s response to the Notice of Default;

(d) The City Manager’s written notification to Collector of adverse decision;

(e) Collector’s Notice of Appeal to the City Clerk; and

(f) Any evidence submitted by Collector pursuant to paragraph (b) of subsection 11.2.2.

No new legal issues may be raised, or new evidence submitted by Collector at this or at any further point in the proceedings, absent a showing of good cause. Collector’s representatives and other interested Persons shall be provided a reasonable opportunity to be heard.
11.2.4. City Council Determination. Based on the administrative record, the City Council shall determine by resolution whether the decision or order of the City Manager should be upheld. A tie vote of the City Council shall be regarded as upholding the decision of the City Manager. If, based upon the administrative record, the City Council determines that the performance of Collector is in breach of any provision of the Agreement or of any applicable federal, State or local statute or regulation, the City Council, in the exercise of its discretion, may order Collector to take remedial actions to cure the breach or impose any other remedy in accordance with this Agreement, including but not limited to termination. The decision or order of the City Council shall be final and binding.

11.2.5. Continued Performance by Collector. Collector’s performance under this Agreement is not excused during the period of time prior to a final determination as to whether or not Collector’s performance is in material breach of this Agreement, or the time set by City for Collector to discontinue a portion or all of its services pursuant to this Agreement.

11.3. TERMINATION FOR CAUSE

11.3.1. City reserves the right to terminate this Agreement in the event that Collector fails to cure any default within the applicable cure periods, including but not limited to the following:

(a) if Collector violates any material provision of any Applicable Law;

(b) if Collector fails to maintain the insurance required by Section 5.2, or fails to maintain one or both of the bonds required by Section 5.3, or fails to pay to City any monies due City pursuant to this Agreement, and fails to remedy such default within five (5) days after written notice thereof from City;

(c) if, after City has reviewed the results of a particular performance review conducted pursuant to Section 10.4, including problem areas, frequency of occurrence, recommended improvements and compliance therewith, and has considered any evidence presented by Collector in connection therewith, City determines to its satisfaction that any material default has occurred;

(d) there is a seizure or attachment (other than a prejudgment attachment) of, or levy affecting possession on, the operating equipment of Collector, including without limit its vehicles, maintenance or office facilities, or any part thereof of such proportion as to impair Collector’s ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within forty-eight (48) hours excluding weekends and Holidays;
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(e) Collector fails to provide reasonable assurances of performance as required under Section 11.9;

(f) Collector fails to notify City in a timely manner of any receipt of notice of violation or official communication from those regulatory agencies regulating Solid Waste, Recyclables, and Green Waste/Food Waste Collection, transportation, Processing or Disposal activities, or street sweeping activities;

(g) If Collector violates any orders or filings of any regulatory body having jurisdiction over Collector relative to this Agreement, provided that Collector may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred until a final decision adverse to Collector is entered;

(h) if Collector ceases to provide Collection or street sweeping services as required under this Agreement over all or a substantial portion of the area within the City, for a period of two (2) days or more, for any reason within the Control of Collector, including but not limited to labor disputes;

(i) if Collector fails to make any payment required under this Agreement and/or refuses to provide City with required information, reports, and/or records in a timely manner as provided for in this Agreement;

11.3.2. Notwithstanding Section 11.1, City reserves the right to terminate this Agreement, without the need to provide Collector an opportunity to cure, in the event of any of the following:

(a) if Collector practices, or attempts to practice, any fraud or deceit upon City, or practiced any fraud or deceit or made any misrepresentations in the negotiations which preceded the execution of this Agreement; or

(b) if Collector has received three (3) or more written Notices of Default in any twelve (12) month period, irrespective of whether or not the act or omission set forth in the notice was corrected or remedied within the time set forth in the notice, but excluding notices where, after investigation, the City Manager or City Council has determined that no default occurred.

11.4. LIQUIDATED DAMAGES

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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<tbody>
<tr>
<td>a. Failure to commence service to a Subscriber account within seven (7) days after order.</td>
<td>$50.00 per incident per Subscriber.</td>
</tr>
<tr>
<td>b. Failure to operate within noise limitations for collection operations in compliance with Section 4.1.4. (b).</td>
<td>$50.00 per incident per day.</td>
</tr>
<tr>
<td>c. Collector’s personnel behaving in discourteous behavior to any Subscribers or City personnel.</td>
<td>$50.00 per incident per day.</td>
</tr>
<tr>
<td>d. Failure to immediately clean material spilled by Collector from Solid Waste, Recycling or Green Waste/Food Waste containers.</td>
<td>$50.00 per incident per location.</td>
</tr>
<tr>
<td>e. Failure to collect Solid Waste, Recyclables or Green Waste/Food Waste during authorized hours.</td>
<td>$50.00 per incident per day.</td>
</tr>
<tr>
<td>f. Failure to respond to a Subscriber complaint with the applicable time period pursuant to Section 3.21.</td>
<td>$50.00 per incident per day.</td>
</tr>
<tr>
<td>Item</td>
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<tr>
<td>g. Failure to have Collector’s personnel dressed in suitable and acceptable uniform clothing and badge or other method of identification.</td>
<td>$50.00 per employee per day.</td>
</tr>
<tr>
<td>h. Failure to maintain Collection vehicles, street sweepers, and other collection vehicles used to provide services under the terms of this Agreement in a clean, safe, and sanitary manner.</td>
<td>$100.00 per incident per day.</td>
</tr>
<tr>
<td>i. Failure to maintain, repair or replace Containers pursuant to Sections 3.21, 3.4, and 4.1.6 of this Agreement.</td>
<td>$100.00 per incident per day.</td>
</tr>
<tr>
<td>j. Failure to notify the City Manager of material operational changes.</td>
<td>$100.00 per incident per day.</td>
</tr>
<tr>
<td>k. Incomplete or improper sweeping of a street.</td>
<td>$100.00 per block (i.e., a cul-de-sac or, for any through street, the part of the street between two consecutive cross streets).</td>
</tr>
<tr>
<td>l. Except as provided in “m” and “n” below, Failure to maintain or timely submit to City all documents and reports required under the provisions of this Agreement.</td>
<td>$100.00 per incident per day.</td>
</tr>
<tr>
<td>m. Failure to submit an annual financial statement pursuant to Section 8.3.</td>
<td>$100.00 per day.</td>
</tr>
<tr>
<td>n. Failure to submit the Work Plans pursuant to Section 4.2.</td>
<td>$333.00 per day.</td>
</tr>
<tr>
<td>o. Failure to remedy a complaint which is found to be justified by the City Manager within two (2) business days after notification by the City Manager.</td>
<td>$250.00 per incident per day.</td>
</tr>
<tr>
<td>p. Failure to repair damage to City or customer property caused by Collector or its personnel.</td>
<td>$250.00 per incident per location.</td>
</tr>
<tr>
<td>q. Failure to deliver any Collected materials to a fully permitted and licensed Designated Disposal Site, Designated Green Waste/Food Waste Facility or Designated Recycling Facility, as appropriate, except as otherwise expressly provided in this Agreement.</td>
<td>$500.00 per incident per day.</td>
</tr>
</tbody>
</table>
LIQUIDATED DAMAGES

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Damage to repair City streets caused by Collector that is not due to</td>
<td>$500.00 per incident and the actual</td>
</tr>
<tr>
<td>normal wear and tear attributed to normal Collection and street</td>
<td>cost of repair to City’s satisfaction—no</td>
</tr>
<tr>
<td>sweeping operations.</td>
<td>cost to City.</td>
</tr>
</tbody>
</table>

11.4.2. Subject to events of force majeure, in the event the Collector fails to perform Collection Services heretofore such that there is a complete or near complete cessation in Collection Services, the City Manager may, in its discretion, assess liquidated damages not to exceed the sum of Twenty-Five Thousand Dollars ($25,000.00) per day, for each calendar day that service is not provided by Collector in accordance with this Agreement. The liquidated damages schedule set forth in Section 11.4.1 shall not apply in the event of such a complete or near complete cessation of services.

11.4.3. Procedure for Review of Liquidated Damages. The City Manager may assess liquidated damages pursuant to this Article 11 on a monthly basis. At the end of each month during the Term of this Agreement, the City Manager shall issue a written notice to Collector ("Notice of Assessment") of the liquidated damages assessed and the basis for each assessment.

(a) The assessment shall become final unless, within seven (7) calendar days of the date of the notice of assessment, Collector provides a written request for a meeting with the City Manager to present evidence that the assessment should not be made.

(b) The City Manager shall schedule a meeting between Collector and the City Manager as soon as reasonably possible after timely receipt of Collector’s request.

(c) The City Manager shall review Collector’s evidence and render a decision sustaining or reversing the liquidated damages as soon as reasonably possible after the meeting. Written notice of the decision shall be provided to Collector.

(d) In the event Collector does not submit a written request for a meeting within seven (7) days of the date of the Notice of Assessment, the City Manager determination shall be final and Collector shall submit payment to City no later than that seventh (7th) day. Or at the sole option of City, if monies are
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owed to Collector, City may deduct the liquidated damages from amounts otherwise due to Collector.

(c) City’s assessment or collection of liquidated damages shall not prevent City from exercising any other right or remedy, including the right to terminate this Agreement, for Collector’s failure to perform the work and services in the manner set forth in this Agreement.

11.4.4. City finds, and Collector acknowledges and agrees, that the above-described liquidated damages provisions represent a reasonable sum in light of all of the circumstances. These liquidated damages sums shall be applicable to each calendar day of delay during which Collector has been found by the City Manager to be in breach of this Agreement.

11.5. INSTITUTION OF LEGAL ACTIONS

In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement, including but not limited to injunctive relief, except that there shall be no right to terminate this Agreement except as set forth in Sections 2.4 and 11.3 of this Agreement. Both parties recognize and agree that in the event of a breach under the terms of this Agreement by Collector, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief to enforce the provisions of this Agreement and to enjoin the breach thereof. Should City institute any action for damages, however, any such claim for damages shall be offset by the amount of liquidated damages assessed pursuant to Section 11.4 and paid to City by Collector, to the extent such liquidated damages apply to the matter for which the action was filed.

11.6. CUMULATIVE RIGHTS

City’s rights to terminate this Agreement or to impose liquidated damages are in addition to any other rights of City upon a failure of Collector to perform its obligations under this Agreement.

11.7. EXTENSION OF TIME OF PERFORMANCE

Notwithstanding any other provision of this Agreement, the City Manager, in his or her sole discretion, may authorize the extension of any of the time periods set forth in this Agreement, for a period not to exceed sixty (60) days. No such extension shall be valid unless in writing and signed by the City Manager.
11.8. EXTENSION OF TIME OF PERFORMANCE DUE TO ENFORCED DELAY

11.8.1. In addition to specific provisions of the Agreement, performance by any party hereunder shall not be deemed to be in default, in the event they are prevented from so performing by reason of floods, earthquakes, tsunamis, other “Acts of God”, war, civil insurrection, riots, and other similar catastrophic events that are beyond the Control of and not the fault of the party claiming excuse from performance hereunder, which such party could not have avoided by exercising due diligence and care and regarding which such party shall use all reasonable efforts that are practically available to it in order to correct such condition.

11.8.2. None of the following are to be considered an excuse from performance, and Collector shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events: (a) general economic conditions, interest or inflation rates, or currency fluctuation or changes in the cost of fuel, commodities, supplies or equipment; (b) changes in the financial condition of Collector or any of its subcontractors affecting their ability to perform their obligations; (c) the consequences of errors, neglect or omissions by Collector, or any subcontractor; (d) failure of any subcontractor or supplier to furnish labor, materials, service or equipment; (e) equipment failure; (f) changes in market prices for, or the unavailability of markets for, the sale or purchase of Recyclables; (g) the availability of any Disposal site or Processing facility; (h) labor unrest, including but not limited to strike, work stoppage or slowdown, sickout, picketing, or other concerted job action conducted by Collector’s, employees or directed at Collector, or a subcontractor. In the case of labor unrest or job action directed at a third party over whom Collector has no Control, however, the inability of Collector to make Collections due to the unwillingness or failure of the third party to provide reasonable assurance of the safety of Collector’s employees while making Collections or to make reasonable accommodations regarding Container placement and point of delivery, time of Collection, or other operating circumstances to minimize any confrontation with pickets or the number of Persons necessary to make Collections, shall, to that limited extent, excuse performance. The foregoing excuse shall be conditioned on Collector’s cooperation in making Collection at different times and in different locations.

11.8.3. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of time reasonable in light of the enforced delay. The extension of time shall commence to run from the time of the commencement of the cause, so long as the party claiming the extension has notified the other party in writing of the nature of the matter constituting the enforced delay within two (2) days after such party has notice of such cause, giving the other party notice of the facts constituting such cause and asserting its claim to excuse under this Section 11.8.

11.8.4. The partial or complete interruption or discontinuance of Collector’s services caused by one or more of the events described in this Section 11.8 and constituting an excuse
from performance shall not constitute default by Collector under this Agreement. Notwithstanding the foregoing, however, (i) the existence of an excuse from performance shall not affect City's rights under Section 11.6 and (ii) if Collector is excused from performing its obligations hereunder for any of the causes listed in this Section 11.8 for a period of thirty (30) days or more, other than as the result of third party labor disputes where service cannot be provided for reasons described in subsection 11.8.2, City shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days notice, in which case the provisions of Section 11.11 shall apply.

11.9. **RIGHT TO DEMAND ASSURANCES OF PERFORMANCE**

If Collector is (i) the subject of any labor unrest including work stoppage or slowdown, sickout, picketing or other concerted job action; (ii) appears in the reasonable judgment of City to be unable to regularly pay its bills as they become due; or (iii) is the subject of a civil or criminal investigation, charge, or judgment or order entered by a federal, state, regional or local agency for violation of a law relating to performance under this Agreement, and City Council believes in good faith that Collector's ability to perform under this Agreement has thereby been placed in substantial jeopardy, City may, at its option and in addition to all other remedies it may have, demand from Collector reasonable assurances of timely and proper performance of this Agreement, in such form and substance as the City Council believes in good faith is reasonably necessary in the circumstances to evidence Collector’s continued ability to perform under this Agreement. If Collector fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by City, such failure or refusal shall be a basis for termination for cause pursuant to Section 11.3.

11.10. **CITY’S RIGHT TO PERFORM UPON DEFAULT**

11.10.1. City’s Right to Perform. In addition to any and all other legal or equitable remedies, in the event that Collector, for any reason whatsoever, fails, refuses or is unable to perform any Collection Service at the time and in the manner provided in this Agreement, and if, as a result thereof, Solid Waste accumulates in the City to such an extent, in such a manner, or for such a time that the City Manager finds that such accumulation endangers or menaces the environment, public health, safety or welfare, then City shall have the right, but not the obligation, upon twenty-four (24) hours prior notice to Collector, to do either one or both of the following during the period of such emergency as determined by City Manager: (i) cause to be performed such services with other personnel without liability to Collector; (ii) to take possession of any or all of Collector's land, equipment and other property used or useful in providing one or more of the Collection Services and to provide one or more of the Collection Services. Should City take possession of Collector's equipment and other property pursuant to this Section 11.10, City shall exercise reasonable, ordinary care in the use of the equipment and
property. Any action by City pursuant to this Section 11.10 shall be without payment to Collector.

11.10.2. Notice. Notice of Collector’s failure, refusal or neglect to perform one or more Collection Services may be given orally by telephone to Collector at its principal office and shall be effective immediately. Written confirmation of such oral notification shall be sent to Collector within twenty-four (24) hours of the oral notification.

11.10.3. Collector’s Cooperation. Collector further agrees that in such event:

(a) It shall fully cooperate with City to affect the transfer of possession of property to City for City’s use.

(b) It shall, if City so requests and to the extent feasible, keep in good repair and condition all of such property, provide all motor vehicles with fuel, oil and other service, and provide such other service as may be necessary to maintain the property in operational condition.

11.10.4. Not a Taking by City. City’s exercise of its contractual rights under this Section 11.10: (i) does not constitute a taking of private property for which compensation must be paid; (ii) shall not create any liability on the part of City to Collector; and (iii) does not exempt Collector from the indemnity provisions of Section 5.1, which are meant to extend to circumstances arising under this Article 11, provided that Collector is not required to indemnify City against claims and damages that are solely caused by the established active negligence or willful misconduct of City officers, employees, agents, or volunteers acting under this Section 11.10. City shall not affect a permanent taking of Collector’s property pursuant to this Section 11.10.

11.10.5. Possession of Collector’s Property. City’s right to retain temporary possession of Collector’s property, and to provide one or more Collection Services shall continue until Collector can demonstrate to City’s satisfaction that it is ready, willing and able to resume such services. City has no obligation to maintain possession of Collector’s property or continue its use in performing one or more Collection Services for any period of time and may, at any time, in its sole discretion, relinquish possession to Collector.

11.11. SUBSTITUTE SERVICES

Separate from or in addition to any other remedy, City may also at its sole discretion promptly secure, or direct Collector to promptly secure, at Collector’s sole expense, substitute services, satisfactory to City, for when Collector is in breach, or is unable to perform, and conditions as provided in this Agreement.
ARTICLE 12. ASSIGNMENT

12.1. ASSIGNMENT OF AGREEMENT

Collector shall not assign, sell, subcontract or otherwise delegate authority to perform any portion of this Agreement, including but not limited to a sale, exchange or other transfer of substantially all of Collector’s assets dedicated to service under this Agreement to a third party, or between a subsidiary and a parent company or Related Party, without the prior written express approval of City. In the event of any assignment duly authorized by City, the assignee shall assume the liability of Collector.

12.2. TRANSFER OF STOCK OR INTEREST

No sale, gift, or transfer of stock or other interest of Collector, including but not limited to any reorganization, consolidation, merger recapitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction to which Collector or any of its shareholders is a party, which would result in a change of Control of Collector, shall be made without prior written approval of the City Council. Violation of this provision shall be a breach of this Agreement and grounds for termination by City without the need for compliance with the notification requirements of Section 11.1.

12.3. BANKRUPTCY

If Collector shall at any time during the Term become insolvent, or if proceedings in bankruptcy shall be instituted by or against Collector, or if Collector shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy or a receiver of any property of Collector shall be appointed in any suit or proceeding brought by or against Collector, or if Collector shall make an assignment for the benefit of creditors, then and in each and every such case, this Agreement shall immediately cease, terminate, and be canceled upon written notice by City and without the necessity of suit or other proceeding.

12.4. REQUIREMENTS OF COLLECTOR

If Collector requests City’s consideration of and consent to an assignment, City may deny or approve such request in its complete discretion. City need not consider any request by Collector for consent to an assignment unless and until Collector has met the following requirements:

(a) Collector shall pay to City the transfer fee described in Section 12.5.
(b) Collector shall furnish City with audited or compiled financial statements of the proposed assignee’s operations for the immediately preceding five (5) operating years.

(c) Collector shall furnish City with satisfactory proof that the proposed assignee has the demonstrated technical capability to perform all Collection Services, including: (i) that the proposed assignee has at least 10 years of experience in the provision and management of Solid Waste, Recyclables, and Green Waste/Food Waste Collection Services on a scale equal to or exceeding the scale of operations conducted by Collector under this Agreement; (ii) in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any State, federal or local agencies and the assignee has provided City with a complete list of such citations and censures; (iii) the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) the proposed assignee conducts its Solid Waste, Recyclables, and Green Waste/Food Waste Collection Services in accordance with sound Solid Waste, Recyclables, and Green Waste/Food Waste practices, and in full compliance with all federal, State and local laws regulating the Collection and Disposal of Solid Waste including hazardous substances; and (v) any other information required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

12.5. APPLICATION AND TRANSFER FEE

Any application for an assignment transfer shall be made in a manner prescribed by the City Manager. The application shall include a transfer fee in the amount of One Hundred Fifty Thousand Dollars ($150,000) to cover the cost of all direct and indirect administrative expenses including consultants and attorneys, necessary to adequately analyze the application and to reimburse City for all direct and indirect expenses. In addition, Collector shall reimburse City for any and all additional costs related to the assignment requested and not covered by the transfer fee. Bills shall be supported with evidence of the expense or cost incurred. Collector shall pay such bills within (30) days of receipt. The transfer fees are over and above any Collector Fees specified in this Agreement.

12.6. TRANSITION

If City consents to an assignment, Collector shall cooperate with City and the assignee to assist in an orderly transition, in accordance with Section 13.8.
ARTICLE 13. MISCELLANEOUS PROVISIONS

13.1. INDEPENDENT COLLECTOR

Collector is, and shall at all times remain as to City, a wholly independent contractor. Collector shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have Control over the conduct of Collector or any of Collector’s employees, except as set forth in this Agreement. Collector shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner employees of City. Collector shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Collector or its officers, employees, subcontractors and agents shall not obtain any rights to retirement benefits, workers’ compensation benefits, or any other benefits that accrue to City employees by virtue of their employment with City.

13.2. FEES AND GRATUITIES

Collector, its officers, agents or employees are prohibited from requesting, soliciting, demanding, or accepting, either directly or indirectly, any compensation or gratuity other than as set forth in this Agreement for the Collection of Solid Waste, Green Waste/Food Waste and Recyclables otherwise required to be collected under this Agreement. Nor shall Collector, its officers, agents or employees provide, directly or indirectly, any gifts or gratuities to any City employee. Notwithstanding the foregoing, employees of Collector may accept gifts freely offered by Subscribers.

13.3. GOVERNING LAW

This law of the State of California shall govern this Agreement. In the event of litigation between the parties, venue in State trial courts shall lie exclusively in Solano County. In the event of litigation in a United States District Court, exclusive venue shall lie in the Northern District of California.

13.4. ATTORNEYS’ FEES

Should legal action be brought by either party to enforce any provision of this Agreement, the prevailing party in such action shall be entitled to its actual attorneys’ fees, court costs, and other litigation expenses including, without limitation, expenses incurred for preparation and discovery, expert witness fees, and expenses relating to appeals, if any. The entitlement to recover such fees, costs and expenses shall accrue upon the commencement of the action regardless of whether the action is prosecuted to final judgment.
13.5. **SUBCONTRACTING**

Collector shall not engage any subcontractors for Collection of Solid Waste, Recyclables, or Green Waste/Food Waste or street sweeping without the prior written consent of the City Manager.

13.6. **AGREEMENT AS COLLATERAL**

Collector may use this Agreement as collateral to secure any loan only if proceeds of the loan are used exclusively for the provision of services under this Agreement and only upon prior written consent of the City Manager. Collector shall not create an encumbrance or lien against this Agreement without the prior written consent of the City Manager.

13.7. **BINDING ON SUCCESSORS**

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

13.8. **TRANSITION TO THE NEXT COLLECTOR**

One (1) year prior to the conclusion of the Term, and in order to assist with the competitive procurement process, Collector shall provide City with such information as may reasonably be requested, including, but not limited to, route maps, account names and phone numbers, and level of service provided. Failure to provide full cooperation may at City’s sole discretion preclude Collector from participating in any competitive procurement process.

13.9. **PARTIES IN INTEREST**

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

13.10. **WAIVER**

The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision. The subsequent acceptance by either party of any monies that become due hereunder shall not be deemed to be a waiver of any preexisting or concurrent breach or violation by the other party of any provision of this Agreement.
13.11. CONDEMNATION

In addition to its rights under Section 11.10, City fully reserves the rights to acquire Collector’s property utilized in the performance of this Agreement, by purchase or through the exercise of its power of eminent domain.

13.12. INTERPRETATION

13.12.1. This Agreement shall be interpreted and construed reasonably and neither for nor against either party, regardless of the degree to which either party participated in its drafting. Each of the parties has received the advice of legal counsel prior to signing this Agreement. Each party acknowledges no other party or agent or attorney has made a promise, representation, or warranty whatsoever, express or implied, not contained herein concerning the subject matter herein to induce another party to execute this Agreement. The parties agree no provision or provisions may be subject to any rules of construction based upon any party being considered the party “drafting” this Agreement.

13.12.2. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. Whenever a reference is made herein to a particular Article of this Agreement, it means and includes all Sections, subsections and subparts thereof, and, whenever a reference is made herein to a particular Section or subsection, it shall include all subsections and subparts thereof.

13.13. CAPTIONS

The captions 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.

13.14. REFERENCES TO LAWS

All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or recodified, unless otherwise specifically provided.

13.15. REFERENCE TO DAYS

All references to days herein are to calendar days, including Saturdays, Sundays and Holidays, except as otherwise specifically provided. Unless otherwise required by a specific provision of this Agreement, time hereunder is to be computed by excluding the first day and including the last day.
13.16. **TIME IS ESSENCE**

Time is of the essence of this Agreement.

13.17. **SEVERABILITY**

If any non-material provision of this Agreement is for any reason deemed to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement that shall be enforced as if such invalid or unenforceable provision had not been contained herein. Notwithstanding the foregoing, however, the provisions of Section 3.17 regarding the Designated Disposal Site, Designated Recycling Facilities, and the Designated Green Waste/Food Waste Processing Facility shall not be deemed to be severable from the other provisions hereof. In the event such provisions are held in any legal proceeding which is binding upon City to be null, void, in excess of City powers or otherwise invalid or unenforceable, and Collector as a result thereof utilizes a Disposal Site, Recycling Facility, or Green Waste/Food Waste Facility other than the ones designated in Section 3.17, this entire Agreement may at City’s sole discretion terminate without any liability of City to Collector.

13.18. **AMENDMENT**

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

13.19. **EXHIBITS**

Each of the Exhibits identified is attached hereto and incorporated herein and made a part hereof by this reference.

13.20. **ENTIRE AGREEMENT**

This Agreement, consisting of one hundred eighteen (118) pages including eight (8) Exhibits, represents the full and entire Agreement between the parties regarding the matters covered herein.
13.21. **COUNTERPARTS**

This Agreement may be executed in counterparts each of which shall be considered an original.

Executed as of the day first above stated:

**"CITY"**

City of Fairfield,
a California municipal corporation

Sean Quinn
City Manager

**"COLLECTOR"**

Republic Services, Inc.,
a Delaware Corporation

Tim Benter
Vice President

Approved as to Form:

Gregory W. Stepanicich
City Attorney
EXHIBIT A
SCHEDULE OF APPROVED RATES
JANUARY 1, 2012 – DECEMBER 31, 2012

All rates include Solano County Business License Fee and City Collector Fee.

RESIDENTIAL PREMISES CART COLLECTION SERVICE

Standard Residential Collection Rates (monthly rates):

<table>
<thead>
<tr>
<th></th>
<th>32 Gallon</th>
<th>64 Gallon</th>
<th>96 Gallon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid Waste</td>
<td>$15.10</td>
<td>$17.42</td>
<td>$20.02</td>
</tr>
<tr>
<td>Additional Solid Waste Cart</td>
<td>$13.59</td>
<td>$15.67</td>
<td>$18.02</td>
</tr>
<tr>
<td>Additional Recycling Cart</td>
<td>No Charge</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additional Green Waste/Food Waste Cart</td>
<td>$3.69/each additional cart</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Residential Premises Lifeline Monthly Rate:

Each unit in a Residential Premises with a qualifying household that meets all of the following criteria, and as verified by Collector, is entitled to a 15% reduction of the standard service rates:

- Combined annual gross income of household must be less than the extremely low level for Solano County for the proceeding calendar year. Maximum household income is determined by the official California State Income Limits and adjusted from time to time by the California Department of Housing and Community.

- Head of household must be either:
  - Age 62 or older;
  - 100% disabled under Social Security law; or Veteran receiving non-service connected disability pension from the Veteran’s Administration.

1Residential Premises cart service includes once weekly curbside Recyclables Collection in either 32-gallon or 64-gallon cart (Subscriber’s choice) and once weekly Green Waste/Food Waste Collection in either 64-gallon or 96-gallon cart (Subscriber’s choice).

2Additional Solid Waste carts will be charged at 90% of the single cart rate.
**COMMERCIAL/INDUSTRIAL PREMISES SOLID WASTE COLLECTION SERVICE**

All rates are monthly unless noted otherwise. All rates include Collection and Disposal unless otherwise noted.

### Can & Cart Service:

<table>
<thead>
<tr>
<th>Service</th>
<th>1/Week</th>
<th>2/Week</th>
<th>3/Week</th>
<th>4/Week</th>
<th>5/Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>32 gallon can (curbside)</td>
<td>$18.53</td>
<td>$33.81</td>
<td>$50.72</td>
<td>$67.60</td>
<td>$84.52</td>
</tr>
<tr>
<td>32 gallon can (carryout)</td>
<td>$19.29</td>
<td>$38.62</td>
<td>$57.87</td>
<td>$77.12</td>
<td>$96.45</td>
</tr>
<tr>
<td>32 gallon cart</td>
<td>$18.67</td>
<td>$37.37</td>
<td>$55.98</td>
<td>$74.64</td>
<td>$93.31</td>
</tr>
<tr>
<td>64 gallon cart</td>
<td>$33.81</td>
<td>$67.62</td>
<td>$101.39</td>
<td>$135.24</td>
<td>$169.06</td>
</tr>
<tr>
<td>96 gallon cart</td>
<td>$47.66</td>
<td>$95.35</td>
<td>$142.97</td>
<td>$190.60</td>
<td>$238.27</td>
</tr>
</tbody>
</table>

### Bin Service:

<table>
<thead>
<tr>
<th>Service</th>
<th>1/Week</th>
<th>2/Week</th>
<th>3/Week</th>
<th>4/Week</th>
<th>5/Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 CY Bin</td>
<td>$183.51</td>
<td>$339.63</td>
<td>$493.87</td>
<td>$649.67</td>
<td>$791.23</td>
</tr>
<tr>
<td>3 CY Bin</td>
<td>$257.66</td>
<td>$475.03</td>
<td>$677.87</td>
<td>$888.04</td>
<td>$1,068.65</td>
</tr>
<tr>
<td>4 CY Bin</td>
<td>$331.57</td>
<td>$640.20</td>
<td>$869.94</td>
<td>$1,159.30</td>
<td>$1,423.60</td>
</tr>
<tr>
<td>5 CY Bin</td>
<td>$393.82</td>
<td>$748.94</td>
<td>$1,066.34</td>
<td>$1,400.16</td>
<td>$1,701.17</td>
</tr>
<tr>
<td>6 CY Bin</td>
<td>$440.84</td>
<td>$852.43</td>
<td>$1,246.33</td>
<td>$1,598.17</td>
<td>$1,948.22</td>
</tr>
<tr>
<td>7 CY Bin</td>
<td>$542.16</td>
<td>$1,028.60</td>
<td>$1,511.28</td>
<td>$2,005.84</td>
<td>$2,492.84</td>
</tr>
</tbody>
</table>

### Compactor Service:

(3 CY – 6 CY compactor service rates do not include leasing or maintenance)

<table>
<thead>
<tr>
<th>Service</th>
<th>1/Week</th>
<th>2/Week</th>
<th>3/Week</th>
<th>4/Week</th>
<th>5/Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 CY Compactor</td>
<td>$451.77</td>
<td>$903.55</td>
<td>$1,355.32</td>
<td>$1,807.10</td>
<td>$2,258.87</td>
</tr>
<tr>
<td>4 CY Compactor</td>
<td>$602.32</td>
<td>$1,204.64</td>
<td>$1,806.96</td>
<td>$2,409.29</td>
<td>$3,011.61</td>
</tr>
<tr>
<td>5 CY Compactor</td>
<td>$752.95</td>
<td>$1,505.90</td>
<td>$2,258.85</td>
<td>$3,011.80</td>
<td>$3,764.75</td>
</tr>
<tr>
<td>6 CY Compactor</td>
<td>$903.54</td>
<td>$1,807.08</td>
<td>$2,710.62</td>
<td>$3,614.15</td>
<td>$4,517.69</td>
</tr>
</tbody>
</table>
September 6, 2011

EXHIBIT A
SCHEDULE OF APPROVED RATES
JANUARY 1, 2012 – DECEMBER 31, 2012

Per Pull Box Service:
Rates include dropping off box at customer location, retrieving box when requested, hauling waste to, and up to two tons of Class III Disposal. An additional charge equal to $54.37 per ton will apply for Disposal in excess of two tons. Compactor boxes do not include leasing or maintenance.

<table>
<thead>
<tr>
<th>20 CY Box, loose</th>
<th>$367.04 per pull</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 CY Box, loose</td>
<td>$389.27 per pull</td>
</tr>
<tr>
<td>30 CY Box, loose</td>
<td>$411.52 per pull</td>
</tr>
<tr>
<td>40 CY Box, loose</td>
<td>$433.80 per pull</td>
</tr>
<tr>
<td>Less than 30 CY compactor</td>
<td>$444.89 per pull</td>
</tr>
<tr>
<td>30 CY – 39 CY compactor</td>
<td>$556.14 per pull</td>
</tr>
<tr>
<td>40 CY and up compactor</td>
<td>$667.34 per pull</td>
</tr>
</tbody>
</table>

TRAVIS AIR FORCE BASE

Travis Air Force Base Commercial/Industrial Premises accounts (excepting public school facilities) shall be charged rates that are seventeen percent less than standard Commercial/Industrial Premises Rates plus an early payment discount of 5.5 percent. Early Payment is defined as payment within 25 days of date of invoice.

SPECIAL CHARGES

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheel-out service for non-qualifying households</td>
<td>$9.89 per month per household</td>
</tr>
<tr>
<td>Extra on-call Bulky Waste pick-up</td>
<td>$18.47 per cubic yard per event</td>
</tr>
<tr>
<td>Freon removal charge</td>
<td>$13.60 per unit</td>
</tr>
<tr>
<td>Extra on-call Solid Waste Collection for Residential Premises</td>
<td>$23.58 for 32 gallon cart</td>
</tr>
<tr>
<td></td>
<td>$27.13 for 64 gallon cart</td>
</tr>
<tr>
<td></td>
<td>$30.90 for 96 gallon cart</td>
</tr>
<tr>
<td>Cart replacement as a result of loss or damage through willful or intentional misuse or abuse</td>
<td>$61.78 per cart including delivery</td>
</tr>
<tr>
<td>Value of CRV rebate coupon, each Minimum value of CRV beverage Required to qualify for a coupon (Section 3.13)</td>
<td>$2.91</td>
</tr>
<tr>
<td></td>
<td>$7.57</td>
</tr>
</tbody>
</table>
**EXHIBIT A**
SCHEDULE OF APPROVED RATES
JANUARY 1, 2012 – DECEMBER 31, 2012

<table>
<thead>
<tr>
<th>Late setout charge</th>
<th>$18.53 per occurrence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reinstatement fee – redelivery of Bins, Carts, or Boxes</td>
<td>$50.00</td>
</tr>
<tr>
<td>Reinstatement fee – Bins, Carts, or Boxes left at Subscriber's premises</td>
<td>$20.00</td>
</tr>
</tbody>
</table>

3 In addition to the free services set forth in subsection 3.6.1.
4 In addition to the free services set forth in subsection 3.3.4.

**EXTRA COMMERCIAL PREMISES PICK-UP**

<table>
<thead>
<tr>
<th>Extra Service</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>32-gallon can Curbside</td>
<td>$34.60 per event</td>
</tr>
<tr>
<td>32-gallon can Carryout</td>
<td>$24.73 per event</td>
</tr>
<tr>
<td>32-gallon cart Carryout</td>
<td>$34.60 per event</td>
</tr>
<tr>
<td>64-gallon cart</td>
<td>$28.38 per event</td>
</tr>
<tr>
<td>96-gallon cart</td>
<td>$30.90 per event</td>
</tr>
<tr>
<td>2 CY Bin</td>
<td>$49.43 per event</td>
</tr>
<tr>
<td>3 CY Bin</td>
<td>$74.12 per event</td>
</tr>
<tr>
<td>4 CY Bin</td>
<td>$98.86 per event</td>
</tr>
<tr>
<td>5 CY Bin</td>
<td>$123.59 per event</td>
</tr>
<tr>
<td>6 CY Bin</td>
<td>$148.29 per event</td>
</tr>
<tr>
<td>7 CY Bin</td>
<td>$173.02 per event</td>
</tr>
</tbody>
</table>

Lock bar and lock on Commercial Containers: $55.93 per container per month

Other special charges not identified herein are subject to review and approval by the City Manager prior to levy.

**HOUSEHOLD HAZARDOUS WASTE DISPOSAL FEE**
**SMALL QUALITY GENERATORS**

Direct cost from Approved Household Hazardous Waste Subcontractor, with no Collector markup

**PROHIBITED CHARGES**

Collector shall not charge a fee, or receive additional compensation, for any of the events or services listed in subsection 7.1.3 of this Agreement.
## EXHIBIT B
### PERFORMANCE REQUIREMENTS

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Personnel Requirements</strong></td>
</tr>
<tr>
<td><strong>Uniforms and Identifications.</strong> Collector shall require its drivers, and all other employees who come into contact with the public, to wear a clean uniform shirt with an identification badge or other means of identifying the employee, as approved by the City Manager.</td>
</tr>
<tr>
<td><strong>Driver Qualifications.</strong> All drivers must have in effect a valid license, of the appropriate class with appropriate endorsements, issued by the California Department of Motor Vehicles.</td>
</tr>
<tr>
<td><strong>No Discrimination.</strong> Collector shall not discriminate during the performance of this Agreement against any employee or applicant for employment because of the employee’s or applicant’s race, religion, national origin, ancestry, sex, age, disability, marital status, or sexual orientation.</td>
</tr>
<tr>
<td><strong>Provision of Field Supervision.</strong> Collector shall designate one qualified employee as supervisor of field operations.</td>
</tr>
<tr>
<td><strong>Recycling Coordinator.</strong> Collector shall provide a full time Recycling Coordinator dedicated to services covered under this Agreement.</td>
</tr>
<tr>
<td><strong>Customer Service</strong></td>
</tr>
<tr>
<td><strong>Public Access to Collector.</strong> Collector shall maintain an office during all times throughout the Term. Office hours shall adhere to subsection 3.20.1.</td>
</tr>
<tr>
<td><strong>Collection Requirements</strong></td>
</tr>
<tr>
<td><strong>Residential Service.</strong> Collector shall provide one pickup per week of Solid Waste Collection, and on the same day, Recyclables Collection and Green Waste/Food Waste service to all Residential Subscribers in the City.</td>
</tr>
<tr>
<td><strong>Commercial/Multi-Family/Industrial Service.</strong> Collector shall provide at least once weekly Solid Waste Collection, Recyclables Collection and Green Waste/Food Waste service to all Commercial/Multi-Family/Industrial Premises in the City. Collector shall provide on-site waste stream assessments to no less than 20% of Commercial Subscribers on a calendar year basis.</td>
</tr>
<tr>
<td><strong>Public Schools.</strong> Collector shall provide at least once weekly Solid Waste Collection, Recyclables Collection and Green Waste/Food Waste service from all School Facilities and School Districts located within City.</td>
</tr>
</tbody>
</table>
**City Facilities.** Collector shall provide at least once weekly Solid Waste Collection, Recyclables Collection and, where required, Green Waste/Food Waste service from all City Facilities.

**Disposal Site and Processing Facility.** Collector shall deliver all Solid Waste, Recyclables, and Green Waste/Food Waste Collected under the Terms of this Agreement to fully permitted and licensed Disposal site or Processing facility.

**Household Hazardous Waste Facility and Program.** Collector shall provide and maintain permanent Household Hazardous Waste Collection Facility located within City limits.

**Vehicle Operation.** All vehicles must be registered with the Department of Motor Vehicles of the State of California and inspected by the California Highway Patrol at the frequency required by the State. Vehicles shall be operated in compliance with the California Vehicle Code and all applicable safety and local ordinances.

**Vehicle Loads.** Collector shall not load Collection and street sweeping vehicles in excess of the manufacturer’s recommendations or limitations imposed by state or local weight restrictions on vehicles.

**Covering of Loads.** All materials shall be contained or covered during transportation to the Disposal site or Processing facility. No material shall be transported to the Disposal site or Processing facility in vehicle hoppers.

**Oil or Other Vehicle Fluid Spills.** Collector is responsible for cleaning up all oil or vehicle fluid spills immediately and must notify City within 24 hours of each such spill. All vehicles must carry an acceptable absorbent material to use in the event of spills.

**Street Sweeping.** Collector shall provide street sweeping service for each curb mile of residential streets and alleys in the City once monthly on a scheduled route basis. Hours of operation shall adhere to subsection 3.16.7.

**Collection and Street Sweeping Routes.** Materials collected shall not be mixed in Collector’s Collection equipment with any materials collected from another municipality, unless Collector accurately accounts for such mixed loads in its reporting to City and the Designated Green Waste/Food Waste Processing Facility, Recycling Facility, and Disposal Site.

**Collection Container Requirements.**

Collector shall provide Containers for storage of materials that shall be designed and constructed to be watertight and prevent the leakage of liquids.

The Containers shall be clearly labeled to indicate their designation for Collection of Solid Waste, Green Waste/Food Waste or Recyclables and shall list the types of materials to be stored in the Container for Collection.
EXHIBIT B
PERFORMANCE REQUIREMENTS

Collector shall be responsible for distributing all Containers to Subscribers in accordance with the provisions of this Agreement.

Collector shall repair, clean, paint, and replace Containers to maintain a clean, attractive, functional, new-like condition. All graffiti shall be removed immediately or as soon as practicable after Collector is made aware of the condition.

Collection and Street Sweeping Vehicle Requirements

LNG Vehicle Replacement. Collector shall replace LNG Vehicles on or before the Schedule set in Exhibit F.

Vehicle Identification. Collector's name, phone number, and vehicle identification number must be visibly displayed on both sides of all vehicles in letters and figures consistent with the requirements of Section 27901 of the California Vehicle Code.

Inventory. Collector shall furnish City a written inventory of all vehicles as specified in subsection 4.1.7(e)(v).

Corporation Yard, Recyclables and Green Waste/Food Waste Processing and Marketing

Tours of Facilities. Upon 24 hours request of City, Collector shall provide tours of the facilities as described in subsection 4.1.11(c).

Insurance and Bonds

Insurance. Collector shall procure and maintain for the Term insurance as described in section 5.2.

Reporting

Annual Financial Statement. Collector shall submit annual financial statements in accordance with Section 8.3.

Annual Report. Annual Reports shall be submitted no later than March 1st for the previous calendar year.

Diversion

City requires the Collector to achieve a minimum annual Diversion Rate of fifty percent (50%) for Residential Collection Services and Commercial/Industrial Collection Services during each calendar year beginning January 1, 2012.
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EXHIBIT C
GENERAL PARAMETERS OF
HOUSEHOLD HAZARDOUS WASTE FACILITY AND PROGRAM

This Exhibit describes the general parameters for the Household Hazardous Waste Collection Program referred to in Section 3.14.

Program shall be staffed and operated to serve no less than 960 residents each year

2 event days per month at Collector's facility
- Program shall be staffed and operated to serve no less than 40 customers each event day
- Customers visit facility by advance appointment only
- Appointments made by customers with Collector by telephone, mail or in person
- Appointments are set for a specific date and time
- Collector will confirm appointments with customers by mail
- Appointment confirmations will include education materials
- Education material will include an inventory card that identifies what materials are accepted by Collector

Customers that arrive for their appointment will be met by a trained representative
- The representative will remove the items from the customers' vehicles
- The material that Collector receives will be recorded and properly packed
- Material that is packed will be either removed from site for Disposal or Recycling, or properly stored on-site as required by permit

Collector's facility will apply, receive and maintain all necessary permits
- Collector shall acquire necessary equipment, supplies and human resources
- Collector will report information about customers served and materials received to the City of Fairfield quarterly of every year.

Program Cost
Program Costs shall be identified as follows:
1. HHW Permanent Facility Collection
   a. Sub-contractor Cost
   b. Labor
   c. Equipment and Supplies
   d. Overhead
2. BOPA Permanent Facility Collection
   a. Processing and Recycling
   b. Labor
   c. Equipment and Supplies
   d. Overhead
3. Curbside Used Oil Collection
   a. Labor
   b. Equipment and Supplies

SQG will be charged an amount not to exceed a “small” Disposal fee as outlined in Exhibit “A” Schedule of Maximum Permissible Rates.
September 6, 2011

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<table>
<thead>
<tr>
<th>Disposal</th>
<th>Processing</th>
<th>Transfer</th>
<th>Facility</th>
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</thead>
<tbody>
<tr>
<td>Solid Waste</td>
<td>Green Waste, Construction and Demolition, Sludge</td>
<td>Solid Waste, Recyclables, Green Waste, Food Waste, Construction and Demolition Waste</td>
<td>Potrero Hills Landfill 3675 Potrero Hills Lane, Suisun, CA 94585</td>
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<tr>
<td></td>
<td>Recyclables</td>
<td></td>
<td>Central Processing Facility 101 Pittsburg Avenue Richmond, CA 94801</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>Green Waste, Construction and Demolition Waste, Sludge, Recyclables</td>
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<td>Recology Hay Road 6426 Hay Road Vacaville, CA 95687</td>
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<tr>
<td></td>
<td>Food Waste, Green Waste</td>
<td></td>
<td>Jepson Prairie Organics Composting Facility 6426 Hay Road Vacaville, CA 95687</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>Construction and Demolition Waste, Sludge</td>
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<td>Keller Canyon Landfill 901 Bailey Road Pittsburg, CA 94565</td>
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</table>
September 6, 2011

EXHIBIT D*
APPROVED FACILITIES

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<td></td>
<td>1601 Dixon Landing Road Milpitas, CA 95035</td>
</tr>
<tr>
<td></td>
<td>Food Waste, Green Waste</td>
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<td>Newby Island Compost Facility</td>
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<td>Pacific Rim Recycling</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>3690 Sprig Drive Benicia, CA 94510</td>
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</table>

* Collector shall make every reasonable attempt to dispose of Solid Waste collected under this Agreement at Potrero Hills Landfill so long as Potrero Hills Landfill is compliant with all Applicable Law. Despite the foregoing and pursuant to Section 3.17, Collector shall maintain its rights to dispose of Solid Waste at any of the Approved Facilities listed in Exhibit D for the disposal of Solid Waste in order to meet the terms and conditions of the Agreement.
## EXHIBIT E
### LIST OF APPROVED SUBCONTRACTORS

<table>
<thead>
<tr>
<th>Subcontractor</th>
<th>Address</th>
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<tbody>
<tr>
<td>Street Sweeping Subcontractor</td>
<td>Universal Building Service</td>
</tr>
<tr>
<td></td>
<td>3120 Pierce St</td>
</tr>
<tr>
<td></td>
<td>Richmond, CA 94804</td>
</tr>
<tr>
<td>Household Hazardous Waste Subcontractor</td>
<td>PSC Environmental Services LLC</td>
</tr>
<tr>
<td></td>
<td>P.O. Box 3069</td>
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<tr>
<td></td>
<td>Houston, TX 77253-3069</td>
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<tr>
<td>E-Waste Subcontractor</td>
<td>E-Recycling of California</td>
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<tr>
<td></td>
<td>P.O. Box 2137</td>
</tr>
<tr>
<td></td>
<td>Paramount, CA 90723</td>
</tr>
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# Exhibit F

## Collection Equipment Replacement Schedule

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<thead>
<tr>
<th>Unit</th>
<th>Mfg Year</th>
<th>Spec - Body Type</th>
<th>Spec - Status</th>
<th>Replacement Unit</th>
<th>Mfg Year</th>
<th>Spec - Body Type</th>
<th>Date of Replacement</th>
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<tr>
<td>110-3858 (ASL) 3658SolanoGarb</td>
<td>2002</td>
<td>Automated Side Load</td>
<td>Colli-Routed</td>
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<td>Colli-Routed</td>
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**EXHIBIT F**
**COLLECTION EQUIPMENT REPLACEMENT SCHEDULE**

<table>
<thead>
<tr>
<th>Unit</th>
<th>Mfg. Year</th>
<th>Spec - Body Type</th>
<th>Spec - Status</th>
<th>Replacement Unit</th>
<th>Mfg. Year</th>
<th>Spec - Body Type</th>
<th>Date of Replacement</th>
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<td>Roll Off</td>
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<td>Coll-Routed</td>
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### EXHIBIT G
### STREET SWEEPING MAP AND SCHEDULE

#### SWEPT WEEKLY 7/11/11

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<th>Street Name</th>
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<tr>
<td>Abernathy Rd. (Hwy 12 to I-80 Overpass)</td>
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<tr>
<td>Alaska Ave.</td>
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<tr>
<td>Auto Mall Parkway</td>
</tr>
<tr>
<td>Beck Ave.</td>
</tr>
<tr>
<td>Cadenzasso Dr. (Auto Mall to Beck)</td>
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<tr>
<td>Chadbourne Road</td>
</tr>
<tr>
<td>Chamber of Commerce Parking Lot</td>
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<tr>
<td>City Hall Parking Lot</td>
</tr>
<tr>
<td>Civic Center Dr.</td>
</tr>
<tr>
<td>Clay Street (Union Ave. to Texas)</td>
</tr>
<tr>
<td>Courage Drive</td>
</tr>
<tr>
<td>Curtis Drive</td>
</tr>
<tr>
<td>Empire St. (Penn Ave to Washington)</td>
</tr>
<tr>
<td>Gateway Blvd.</td>
</tr>
<tr>
<td>Gateway Court</td>
</tr>
<tr>
<td>Great Jones (Empire to Missouri)</td>
</tr>
<tr>
<td>Guittard Way</td>
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<tr>
<td>Holiday Lane</td>
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<tr>
<td>Jackson Street (Empire to Missouri)</td>
</tr>
<tr>
<td>Jefferson Street (Empire to Missouri)</td>
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<td>Kentucky St. (Penn to Washington)</td>
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<td>Louisiana Street</td>
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<tr>
<td>Low Court</td>
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<td>Madison Street (Empire to Missouri)</td>
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<td>Maupin Lane</td>
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<td>Maxwell Way</td>
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<td>Meyer Way</td>
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<td>Missouri St.</td>
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<td>N. Texas Street</td>
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<td>Taylor Street (Empire to Missouri)</td>
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<td>Texas Street</td>
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<td>Union Ave.</td>
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<td>Watney Way</td>
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<td>Webster Street (Travis Blvd. to Missouri)</td>
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<td>Street Name</td>
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<tr>
<td>Acacia Street</td>
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<tr>
<td>Airbase Parkway</td>
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<td>Atlantic Ave. (Orchid to N. Texas)</td>
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<td>Auto Plaza Court</td>
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<td>Beck Ave. (Hwy 12 to Cordelia Rd.)</td>
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<td>Busch Drive</td>
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<td>Campus Lane</td>
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<td>Central Way</td>
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<td>Clay Street (Bell to Washington)</td>
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<tr>
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<td>Dover Ave.</td>
</tr>
<tr>
<td>E. Atlantic Ave. (Cement Hill Rd. to Dover Ave.)</td>
</tr>
<tr>
<td>E. Pacific Ave.</td>
</tr>
<tr>
<td>East Tabor Ave.</td>
</tr>
<tr>
<td>Eastman Court</td>
</tr>
<tr>
<td>Edison Court</td>
</tr>
<tr>
<td>Executive Court</td>
</tr>
<tr>
<td>Fairfield Ave.</td>
</tr>
<tr>
<td>Fermi Road</td>
</tr>
<tr>
<td>Fulton Drive</td>
</tr>
<tr>
<td>Gold Hill Road</td>
</tr>
<tr>
<td>Green Valley Road</td>
</tr>
<tr>
<td>Gregory Street (Woolner to Texas)</td>
</tr>
<tr>
<td>Grohic Court</td>
</tr>
<tr>
<td>Hale Ranch Rd.</td>
</tr>
<tr>
<td>Heath Drive</td>
</tr>
<tr>
<td>Hilborn Road</td>
</tr>
</tbody>
</table>
September 6, 2011

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EXHIBIT H
OPERATIONAL WORK PLANS

Collector shall submit the operational work plans listed in Article 4 by December 31, 2011.