

**AMENDED AND RESTATED
SOLID WASTE COLLECTION
FRANCHISE AGREEMENT
BY AND BETWEEN
THE COUNTY OF SONOMA
AND
RECOLOGY SONOMA MARIN**

Original Execution Date: September 29, 2009

Amended and Restated on: October 19, 2010

First Amended on: April 24, 2011

Second Amended on: July 1, 2014

Third Amended on: November 3, 2015

Amended and Restated on: March ___, 2020

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SOLID WASTE COLLECTION FRANCHISE AGREEMENT

This Amended and Restated Franchise Agreement ("Agreement") dated _____, 2020 was originally entered into between the County of Sonoma ("County") and Redwood Empire Disposal Sonoma County, Inc. on September 29, 2009 ("Effective Date") and then it was amended on October 19, 2010, April 24, 2011, July 1, 2014 and November 3, 2015 before being assigned by Redwood Empire Disposal Sonoma County, Inc. on December 23, 2017 to Recology Sonoma Marin ("Company"). This Amended and Restated Franchise Agreement shall replace and supercede all prior versions of the same.

Recitals

WHEREAS, pursuant to Article XI, § 7 of the California Constitution, County has authority over matters of public health and sanitation, including without limitation the collection and management of all solid waste within its geographic jurisdiction; and

WHEREAS, the California Integrated Waste Management Act of 1989 (the "Act") has established a statewide solid waste management system and process which requires the County, cities and other local jurisdictions to implement plans for source reduction, diversion, reuse and recycling as elements of an integrated solid waste management strategy; and

WHEREAS, Public Resources Code section 40059 provides that in administering the requirements of the Act, aspects of solid waste handling of local concern include, without limitation, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location and extent of providing solid waste services, and whether the services are to be provided by means of nonexclusive, partially exclusive or wholly exclusive franchise, contract, license or otherwise which may be granted by local government under terms and conditions prescribed by the governing body of the local agency; and

WHEREAS, County and Company have set forth below herein the rights to be accorded Company for the collection of solid waste in a manner consistent with the exercise of County's rights and obligations under the police power for the protection of public health and safety; and

WHEREAS, County has entered into agreements with other jurisdictions or entities (hereinafter "flow control agreements"), which provide that the County shall cause its franchised haulers to deliver all solid waste (with the exception of source separated recyclable materials) collected by such franchised hauler in the unincorporated area of the County to the following transfer and disposal facilities located in the County: the Central Landfill, Central Transfer Station, Sonoma Transfer Station, Healdsburg Transfer Station, Guerneville Transfer Station and Annapolis Transfer Station (hereinafter, the "County Facilities") or to other facilities; and

WHEREAS, in order for the County to fulfill its commitments under its flow control agreements, the County must either itself undertake the collection of solid waste in the unincorporated area of the County using County personnel and collection vehicles, or the County may franchise a third party hauler (such as Company) to collect such solid waste and obtain a binding commitment from such third party hauler to deliver all such solid waste (with the

exception of source separated recyclable materials) to the County Facilities or other facilities as may be designated by County; and

WHEREAS, the Company wishes to receive from the County an exclusive franchise agreement to collect all solid waste generated in the Service Area (as defined below); and

WHEREAS, the County's grant of an exclusive franchise pursuant to its police power is a valuable right to be conferred upon Company, and absent a binding commitment by the Company to deliver such solid waste to the County Facilities or other facilities as may be designated by County, as required by this Agreement, the County would not enter into this exclusive agreement with the Company; and

WHEREAS, County approved the Amended and Restated Agreement on October 19, 2010; and

WHEREAS, County approved Amendment No. 1 to the Amended and Restated Agreement ("First Amendment") on April 24, 2011 in order to add the Lake Sonoma customers to the Cloverdale Zone and the Tubbs Island customers to the Sebastopol/South Sonoma County Zone; and

WHEREAS, County approved Amendment No. 2 to the Amended and Restated Agreement ("Second Amendment") on July 1, 2014 in order to (1) expand the dead animal collection program; (2) update the NPDES street sweeping program to comply with NPDES regulations; and (3) increase the Franchise Fee from 10% to 11% to be more in line with other jurisdictions; and

WHEREAS, County approved Amendment No. 3 to the Amended and Restated Agreement ("Third Amendment") on November 3, 2015 in order to: (1) align the annual adjustments to customer service rates to the annual adjustments that occur at the Central Disposal Site under the Master Operations Agreement between the County and Republic Services of Sonoma County, Inc.; (2) make changes to requirements for vehicle inventory; (3) amend Exhibit G (Annual Rate Adjustment Methodology for Solid Waste Collection Rates) in order to adjust the weighted rates and add organics disposal; (4) amend Exhibit E (Rate Schedule) in order to reflect amendments to Exhibit G; and (5) amend language of the Agreement to clarify various sections identified by an audit that was completed in August 2015 by the Sonoma County Auditor-Controller-Treasurer-Tax Collector; and

WHEREAS, the Amended and Restated Agreement, as amended by the First Amendment, the Second Amendment, and the Third Amendment thereto, shall be referred to as the "Amended Agreement" for the purposes of these Recitals; and

WHEREAS, through that certain Assignment, Novation and Consent Agreement dated November 14, 2017, County approved the assignment of the Amended Agreement by Redwood Empire Disposal, Inc. to Recology Sonoma Marin, which assignment became effective as of December 23, 2017; and

WHEREAS, Company and County desire to amend the Amended Agreement in order to (1) allow for a one-time rate adjustment for recent increases in labor costs; (2) consolidate rate zones to reduce disparities in the cost of service; (3) update the Rate Adjustment Model to more accurately reflect costs and the impact of changes in the recycling markets; (4) expand street sweeping services; (5) replace the discount for customers who make advance payments with a discount for low income customers; (6) provide clarity as to the governing agreement when Company's services are needed to respond to large-scale versus small-scale emergency events; (7) require compliance with the County's Living Wage Ordinance; and (8) make other miscellaneous administrative updates to reconcile the agreement with the parties existing business needs and practices.

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

ARTICLE 1

DEFINITIONS

- 1.1 Act.** The term "Act" means the California Integrated Waste Management Act set forth in California Public Resources Code Sections 40000 *et seq.* Notwithstanding the foregoing definition, in certain sections of this Agreement, the definition of "Act" shall not apply when the term is used to identify laws by their legislative title, i.e. the "Resource Conservation and Recovery Act."
- 1.2 Adjustment Date.** The term "Adjustment Date" means July 1st of each year, commencing July 1, 2011.
- 1.3 Affiliate.** "Affiliate" of an Entity means any other Entity that (a) directly or indirectly controls the specified Entity; (b) is controlled by or is under direct or indirect common control with the specified Entity; (c) is an officer, director, employee, representative or agent of the Entity; (d) is a wholly-owned subsidiary of the Entity; or (e) acquires all or substantially all of the assets of such Entity. For the purposes of this definition, "control", when used with respect to any specified Entity, means the power to direct the management or policies of the specified Entity, directly or indirectly, whether through the ownership of voting securities, partnership or limited liability company interests, by contract or otherwise. As of the date of this Amended and Restated Agreement, a list of Company's Affiliates with operations in the Service Area is set forth in Exhibit A.
- 1.4 Agreement.** The term "Agreement" means this franchise agreement between County and Company, including all exhibits and attachments, and any amendments hereto.
- 1.5 Base Franchise Fee.** The term "Base Franchise Fee" means the minimum annual franchise fee set forth in Section 3.1 below.
- 1.6 Bulky Item.** "Bulky Item" means discarded household appliances, furniture, tires, carpet, mattresses, and similar large items, which require special handling due to their size, but can be

collected without the assistance of special loading equipment (such as forklifts or cranes) and without violating vehicles load limits. It does not include abandoned automobiles.

1.7 [OMITTED.]

1.8 **CPI Factor.** “CPI Factor” means the increase, if any in the San Francisco/Oakland/Hayward All Urban Consumer Price Index, series ID: CUURS49BSA0 (“CPI”) during the preceding year. The CPI Factor shall be determined pursuant to a ratio, the denominator of which is the CPI for the last calendar month immediately preceding the prior Adjustment Date and the numerator of which is the CPI for the calendar month immediately preceding the then current Adjustment Date, provided however that for the initial Adjustment Date, the denominator shall be the CPI for the last calendar month immediately preceding the Commencement Date, for which such index is published. Notwithstanding, the foregoing, when applying the CPI Factor in this Agreement, it shall not be less than 3.2%, nor more than 5%.

1.9 **Commencement Date.** The term “Commencement Date” means November 1, 2009.

1.10 **Compactor Containers.** The term “Compactor Containers” means any Roll-off Container which has a compaction mechanism, whether stationary or mobile.

1.11 **Company.** The term "Company" means Recology Sonoma Marin, a corporation organized and operating under the laws of the State of California.

1.12 **Company Facilities.** The term "Company Facilities" means any plant or site, owned or leased and maintained and/or operated or used by Company, its Affiliates or Related Party Entities, currently or in the future, for purposes of performing any services under this Agreement.

1.13 **Construction and Demolition Wastes.** The term “Construction and Demolition Wastes” means wood, wallboard, ferrous and non-ferrous metals, glass, any fibrous material (including paper, cardboard, newspaper), plastic, concrete and other Recyclable and non-Recyclable Materials generated by residential, commercial and industrial demolition, remodeling and construction activities.

1.14 **County.** The term "County" means the County of Sonoma.

1.15 **County Facilities.** The term “County Facilities” means the Central Landfill, Central Transfer Station, Sonoma Transfer Station, Healdsburg Transfer Station, Guerneville Transfer Station and Annapolis Transfer Station.

1.16 **County Manager.** The term “County Manager” means the Deputy Director of Transportation and Public Works or his or her designee

1.17 **Debris Box.** The term “Debris Box” means an open-top metal container serviced by a roll-off truck with a capacity of greater than 8 and no more than 50 cubic yards.

- 1.18 Entity.** The term “Entity” means an individual, partnership, joint venture, corporation, limited liability company, trust, association, unincorporated organization or any Governmental Authority.
- 1.19 Environmental Laws.** The term “Environmental Laws” means any applicable statutes, regulations, rules, guidance or ordinances, as in effect from time to time, relating to air emissions, hazardous or toxic substances, solid and/or hazardous wastes, hazardous materials, wastewater discharges and similar environmental matters.
- 1.20 Execution Date.** The term “Execution Date” means the date on which this Agreement is executed and delivered by the parties thereto.
- 1.21 Fiscal Year.** The term "Fiscal Year" means the period commencing January 1st of one year and concluding December 31st of the same year for Company. For County, it means the period commencing July 1st of one year and concluding June 30th of the subsequent year. Nothing herein shall limit the right of Company to change its fiscal year, if Company should so elect.
- 1.22 Force Majeure Event.** The term “Force Majeure Event” means the occurrence of any of the following events that materially and adversely affects Company’s ability to perform obligations under this Agreement, provided that such events (or the effects of such events) could not have been avoided by the exercise of due diligence or reasonable efforts by Company and subject to notice requirements and the duty to mitigate: (a) war (including civil war and revolution), invasion, armed conflict, violent act of foreign enemy, military or armed blockade, or military or armed takeover of Company Facilities; (b) any act of terrorism or sabotage; (c) biological contamination, nuclear explosion or nuclear contamination; (d) riot and civil commotion on or in the immediate vicinity of Company Facilities; (e) acts of nature, such as fire, explosion, flood, earthquake, landslide, fissure, volcanic activity, tsunami and ionizing radiation, in each case, that cause direct physical damage to Company Facilities or to all of the transportation routes to and from Company Facilities; (f) a national strike or local strike not directed at Company (excluding any strike within the control of Company or any Affiliate); and (g) a criminal act that causes direct physical damage to Company Facilities.
- 1.23 Franchise Fee.** The term “Franchise Fee” means the fees described in Section 3.1 below.
- 1.24 Garbage Bin.** The term “Garbage Bin” means a metal bin with a capacity of 1.5 to 6 cubic yards typically used at commercial/industrial/institutional sites and Multi-Family Dwelling Units that is capable of being mechanically dumped into a front-end loader Solid Waste truck. Garbage Bins shall also include compactors that are owned by the waste generator (e.g., a Multi-Family Dwelling Unit or commercial/industrial/institutional premises) wherein the service occurs.
- 1.25 Governmental Authority.** The term “Governmental Authority” means any federal, state, local or other governmental, regulatory or administrative agency, governmental commission, department, board, subdivision, court, tribunal, or other governmental arbitrator, arbitral body or other authority.

- 1.26 Greenwaste.** The term "Greenwaste" means biodegradable materials such as tree trimmings, grass cuttings, plant materials, leaves, branches, and dead trees (not more than four (4) inches in diameter) and similar yard debris materials within containers at Residential Properties.
- 1.27 Greenwaste Facility.** The term "Greenwaste Facility" means the composting facility designated by County. Upon the Execution Date, the designated facility is Sonoma Compost facility located at the Central Landfill.
- 1.28 Gross Revenues.** The term "Gross Revenues" means the total amount collected from customers by Company for a specified period of time for all services provided by Company within the Service Area. Franchise Fees shall be subtracted from Gross Revenues. Gross Revenues shall also include any revenue received by Company, its Affiliates and Related Party Entities from the sale of Recyclable Materials collected within the Service Area from Source Separated Recyclable Materials, including any California Redemption Value (CRV) payments net of expenses incurred by the Company, its Affiliate or Related Party in processing the materials. The expense incurred in processing the materials shall not exceed \$75.00 per ton. Commencing July 1, 2011, the maximum processing expense of \$75.00 per ton shall be adjusted by the CPI Factor. Gross Revenues shall not include revenue from Non-Franchised Recycling as defined in Section 1.36A below.
- 1.29 Hazardous Substance.** The term "Hazardous Substances" means any waste, chemical, material or substance that is listed or regulated, whether presently or in the future, under Environmental Laws as a "hazardous" or "toxic" substance, material or waste, or as a "contaminant," or is otherwise listed or regulated under Environmental Laws (irrespective of whether it is listed as a "hazardous" or "toxic" substance, material or waste or as a "contaminant"), including Solid Waste and municipal wastes.
- 1.30 [OMITTED.]**
- 1.31 Law or Laws.** The term "Law" or "Laws" means (a) any statute, law, code, regulation, ordinance, rule or common law, including Environmental Laws, (b) any binding judgment, (c) any binding judicial or administrative order or decree, (d) any written directive, guideline, policy requirement or other governmental restriction (including those resulting from the initiative or referendum process), or (e) any similar form of decision of or determination by, or any written interpretation or administration of any of the foregoing by, any Governmental Authority, in each case, which is applicable to or has an impact on services being provided under this Agreement, whether taking effect before or after the Execution Date.
- 1.32 [OMITTED.]**
- 1.33 Mixed Waste.** The term "Mixed Waste" means Solid Waste that includes both Recyclable and non-Recyclable Materials in varying proportions.
- 1.34 Mobile Home Park.** The term "Mobile Home Park" means any area or tract of land used to accommodate two (2) or more mobile homes as single-family residential uses, where those

homes are located on individual rented or leased lots consistent with Health and Safety Code Section 18214(c)(1).

1.35 Multi-Family Dwelling Unit. The term "Multi-Family Dwelling Unit" means any premises, other than a Single Family Dwelling Unit or a Mobile Home Park, used for residential purposes, irrespective of whether residence therein is transient, temporary, or permanent.

1.36 Multiple Jurisdiction Routes. The term "Multiple Jurisdiction Routes" means those certain routes where Company collects Solid Waste from more than just the Service Area. The "Multiple Jurisdiction Routes" shall be identified by Company prior to the Commencement Date and provided to the County Manager for review and approval. Upon approval by the County Manager, the "Multiple Jurisdiction Routes" shall be attached to this Agreement as Exhibit B.

1.36.A Non-Franchised Recycling. The term Non-Franchised Recycling means recycled materials that a commercial business generator within the Service Area sells to the Company or its Affiliates for their market value based on an arm's length transaction, Non-Franchise Recycling materials are outside the Franchise Fees to the extent such materials were purchased by Company or its Affiliates for material consideration.

1.37 Recycling. The term "Recycling" means the process of separating for collection, collecting, cleansing, treating, and/or reconstituting Recyclable Materials (as defined below) that would otherwise be disposed of, and returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The collection, transportation, or disposal of Solid Waste that is not intended for, or capable of, reuse is not Recycling. Recycling does not include use of Solid Waste for conversion to energy.

1.38 Recycling Program. The term "Recycling Program" means the Recycling services Company is required to provide under Section 4.2.

1.38.A Recycling Revenue Allocation Model. Recycling Revenue Allocation Model means the methodology used to distribute the percentage of Source Separated Recyclable Materials collected from each jurisdiction served by the Company based on the Waste Characterization and Audits performed by Company according to Section 5.9 below.

1.39 Recyclable Materials. The term "Recyclable Materials" or "Recyclable Material" means glass, fibrous material (including paper, cardboard, newspaper) wood, Greenwaste and organic material, food waste, concrete, plastic, ferrous and non-ferrous metal, aluminum and any other materials that are capable of being Recycled.

1.40 Recycle, Recycled, Recycling. "Recycle", "Recycled" and "Recycling" each mean and refer to the process of collecting, sorting, cleansing, treating, and/or reconstituting Recyclable Materials and Mixed Wastes and returning them to the economic mainstream in the form of raw material

for new, reused, or reconstituted products that meet the quality standards necessary to be used in the marketplace.

- 1.41 Related Party Entity.** The term "Related Party Entity" means any Entity that engages in financial transactions with Company during the term of this Agreement, and in which a majority of the ownership interest of the other Entity is owned or effectively controlled by the Company, or by one or more of the current, then current or former shareholders, directors, officers, or senior management employees of Company or by their spouses, siblings, or issue. As of the date of this Amended and Restated Agreement, all Related Party Entities with whom Company intends to engage in financial transactions are set forth in Section 7.3.3. All subsequent changes to the disclosure embodied in Section 7.3.3 are subject to annual review and approval by the County, as described in Section 7.3.3.
- 1.42 Residual Solid Waste.** The term "Residual Solid Waste" means all of the residual waste after Recyclable Materials have been processed at the Company Facilities.
- 1.43 Roll-Off Container.** The term "Roll-Off Container" means an open top metal container that is normally loaded onto a motor vehicle for transportation to a facility.
- 1.44 Service Area.** The term "Service Area" means the physical area encompassed within the boundaries described in Exhibit D hereto.
- 1.45 Service Rates.** The term "Service Rates" means the maximum charges and fees that Company may charge under this Agreement as set forth in the schedules attached in Amended Exhibits E-1 through E-5. The Service Rates effective as of the date of this Amended and Restated Agreement are set forth in Amended Exhibits E-1 to E-5. These Service Rates shall be adjusted in accordance with Article 6 of this Agreement. Charges and fees that may be billed to customer shall not exceed the Service Rates set forth in this Agreement, except as the maximum amounts that may be charged are adjusted under the terms of this Agreement.
- 1.46 Single-Family Dwelling Unit.** The term "Single-Family Dwelling Unit" means each premises used for or designated as a single family residential dwelling, including each unit of a duplex or triplex, townhouse or condominium type complex, in all cases in which there is separate or individual Solid Waste collection service. Single Family Dwelling Unit shall exclude a Mobile Home Park.
- 1.47 Solid Waste.** The term "Solid Waste" means all putrescible and nonputrescible solid, semi-solid and associated liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes; discarded non-hazardous home and industrial appliances; dewatered, treated or chemically fixed sewage sludge which is not a Hazardous Substance; special waste; manure; vegetable or animal solid and semi-solid wastes; other discarded solid and semi-solid wastes; Mixed Waste; Construction and Demolition Wastes; Recyclable Materials, agricultural wastes; landscaping wastes and non-hazardous industrial wastes regulated pursuant to the Medical Waste Management Act.

- 1.48 Source Separated Recyclable Materials.** The term “Source Separated Recyclable Materials” means Recyclable Materials separated from an owner’s Mixed Waste at the owner’s premises with the intention of diversion for a beneficial use and placed in separate collection containers for Recycling pursuant to the Recycling Program. Such materials include wood, Greenwaste, metal, glass, plastic, cardboard, and office paper. For the purposes of this definition, “owner” means the individual resident or commercial or industrial business generating the materials. Source Separated Recyclable Materials for the purpose of this definition shall have no more than 20% maximum residue that is not Recyclable Materials. For purposes of this definition, Source Separated Recyclable Materials shall not include Construction and Demolition Waste.
- 1.49 Summary Pay Cycle Reports.** The term Summary Pay Cycle Reports means a monthly summary report generated from the Company's proprietary billing system. The Summary Pay Cycle Report shall summarize the Gross Revenues collected by the Company for the month and shall be submitted with the Payment of Franchise Fees according to the terms in Section 3.2 below.

ARTICLE 2

GRANT AND ACCEPTANCE OF FRANCHISE

- 2.1 Grant and Acceptance of Franchise.** Subject to Section 2.4, County hereby grants to Company the exclusive franchise, right and privilege to collect, transport, recycle, and deliver for processing and/or disposal of Solid Waste accumulating in the Service Area in accordance with current laws, regulations, and ordinances for the term of and within the scope set forth in this Agreement. Company hereby accepts the franchise on the terms and conditions set forth in this Agreement. Upon thirty (30) days advance written notice by County to Company, County may modify the Service Area by eliminating the portion of the Service Area bound by Highway 37 to the North; Tolay Creek to the East and the Countyline to the South. Such modification shall have no impact on the Service Rates in the remaining Service Area.
- 2.2 Term of Agreement.** The Term of this Agreement shall be twenty (20) years commencing on the Commencement Date and expiring at midnight on October 31, 2029, unless otherwise terminated pursuant to the terms of this Agreement.
- 2.3 [NOT USED].**
- 2.4 Conditions to Effectiveness of Agreement.** This Agreement is subject to the satisfaction of each and all of the conditions set out below, each of which may be waived in writing in whole or in part by County.
- 2.4.1 Accuracy of Representations.** Representations and warranties made by Company throughout this Agreement are accurate, true, and correct on and as of the Effective Date of this Agreement.
- 2.4.2 Furnishing of Insurance, Guaranty and Bonds.** Company has furnished evidence of the insurance, the guaranty and bonds required by Article 8.

2.4.3 Contingency Plan. Company has furnished to County, a written contingency plan demonstrating Company's arrangement to provide uninterrupted service during mechanical breakdowns or other "non-catastrophic" emergencies.

2.4.4 Service Routes. Company has furnished to County all collection route information required under Section 4.4.4(a) below.

2.5 Scope of Franchise. The scope of the franchise granted to Company herein shall be consistent with Chapter 22 of the Sonoma County Code. Company shall have an exclusive right to collect all Solid Waste in the Service Area, except such Solid Waste that is exempt from licensing requirements pursuant to Section 22-21 of the Sonoma County Code.

2.6 County's Right to Direct Changes. County reserves the right to direct Company to perform additional Solid Waste collection services or modify the manner in which it performs existing services. Company shall promptly take direction from County in responding. County shall adjust rates to reflect the increase, if any, that such changes directed by County increases Company's costs for providing services within the Service Area. If Company is capable of performing or developing the ability to perform a requested service or modifying an existing service, and an adjustment in Company's revenue requirement has been requested but has not been agreed upon, Company shall commence the new or changed service while the appropriate revenue adjustment is being determined. Pilot programs and innovative services that may entail new collection methods, different kinds of services, and/or new requirements for waste generators are included among the kinds of changes that County may direct. Notwithstanding the foregoing, County may direct Company to institute a new billing method whereby disposal fees and other County charges are collected at the curb instead of the County's Facilities and the parties agree that such change shall not entitle Company to any overall rate increase.

2.7 Agreement to Deliver Solid Waste to the County Facilities.

2.7.1 General Obligation. Throughout the term of this Agreement, Company will deliver all Solid Waste (except Source Separated Recyclable Materials) collected by Company in the Service Area directly to the County Facilities, or such other facilities as the County may direct in writing as long as the facilities accept such waste. Except as set forth in Section 2.8 below, Company shall not commingle in collection vehicles or otherwise, any Solid Waste collected in the Service Area with Solid Waste collected in any other counties or in any cities in the County. Company shall not load or transship any Solid Waste collected in the unincorporated area into any other vehicles, and shall not transport such Solid Waste except in Company's Collection vehicle that first collected the Solid Waste at the point of generation and collection. Greenwaste shall be delivered to the Greenwaste Facility. Company's obligation to deliver Solid Waste to the County Facilities which accept such waste shall include all of the following categories of Solid Waste collected by Company in the Service Area: (a) non-Recyclable Waste, (b) Mixed Waste, (c) Construction and Demolition Debris, and (d) Solid Waste (other than Source Separated Recyclable Materials) generated by (i) residential customers and premises, (ii) Multi-Family Dwelling Unit customers and premises, (iii) commercial customers and premises, (iv) industrial customers and premises, (v) institutions, (vi) construction and/or demolition sites and

projects, and (vii) governmental customers and premises. Without limiting the generality of the foregoing, Company shall deliver to the County Facilities all Solid Waste deposited for collection in residential collection containers, Garbage Bins, and Roll-Off Containers and Compacter Containers. With the exception of Source Separated Recyclable Materials and Greenwaste, Company shall not deliver any Solid Waste collected by Company to any other processing facility, including, without limitation any material recovery, recycling, transformation, or conversion facility, or to any other facilities for transfer or disposal, other than to the County Facilities or as directed by County in writing except Solid Waste of a type not accepted at the County Facilities. Company shall timely pay all invoices for the delivery of Solid Waste to the County Facilities and the Greenwaste Facility. Company's obligation to deliver all Solid Waste (except Source Separated Recyclable Materials and Greenwaste and materials not accepted at the County Facilities) to the County Facilities is a material term of this Agreement, and this obligation shall be interpreted as broadly as possible, in order to effectuate the Parties' intent under this Agreement

2.7.2 Processing of Source Separated Recyclable Materials. Company shall be responsible for processing all Source Separated Recyclable Materials at the Company Facilities. Company shall use its best efforts to meet the minimum diversion requirements set forth in Section 4.5.1 in processing the Source Separated Recyclable Materials.

2.8 Collection Routes Involving Multiple Jurisdictions. Company may commingle Solid Waste collected on the Multiple Jurisdiction Routes with Solid Waste from other jurisdictions. Company shall allocate solid waste collected on the Multiple Jurisdiction Routes in accordance with the provisions of Section 4.4.4(a) below.

2.9 Residual Solid Waste from Company Facilities. The parties acknowledge that as part of Company's processing of the Source Separated Recyclable Materials at Company Facilities located throughout Sonoma County, there will be Residual Solid Waste that will need to be disposed of at a landfill. In addition, Company may process other waste from other jurisdictions or Entities at its Company Facilities which produce Residual Solid Waste. As part of the consideration of this Agreement, effective upon the resumption of landfilling operations at the County Central Landfill, Company shall deliver all such Residual Solid Waste (from any source (including materials collected by Affiliates) or location within or without the County of Sonoma) from all of its Company Facilities within Sonoma County to the County Landfill for disposal, up to a maximum amount of 100 tons per day (based on a 5 day per week average). Transfer trailer loads of Residual Solid Waste from Company Facilities shall be delivered directly to the Central Landfill facility. Upon entry to the Central Landfill Facility the transfer trailers shall be weighed at the commercial scales before driving out onto the landfill to unload. Company shall identify these loads to the cashier at the commercial scales as Residual Solid Waste load from the Company Facilities. For tonnage over 100 tons per day, Company shall pay the standard gate rate at the County Landfill for County Controlled Waste. The disposal rates charged to Company for delivery of Residual Solid Waste to the County Landfill shall be \$54.50/ton subject to annual escalation by the CPI Factor. These reduced disposal rates are in exchange for Company agreeing to deliver all such materials to the County Central Landfill. Notwithstanding the foregoing, County may, at any time: (a) direct Company to take the Residual Solid Waste to another facility and Company shall not be entitled to any adjustment of Service Rates if the other

facilities' processing costs are less than or equal to the \$50/ton rate (as escalated by the CPI Factor); or (b) grant Company a temporary right (for so long as County directs in writing) to decide where to take the Residual Solid Waste and Company shall not be entitled to any adjustments in Service Rates. Company shall not be entitled to be paid the Transfer Station Operations, Transport to the Central Landfill fee, described in the Agreement for Operation of the County Transfer Stations and Transport and Disposal of Solid Waste between the County of Sonoma and The Ratto Group of Companies, Inc. dated August 3, 2010, for any Residual Solid Waste from Company Facilities to the Central Landfill.

2.10 Construction and Demolition Waste. Company represents and warrants to County that it is a party to agreements with the cities of Cloverdale, Cotati, Healdsburg, Rohnert Park, Santa Rosa and Sebastopol, pursuant to which Company is required to deliver Construction and Demolition Waste it collects within such cities to the County Facilities. To the extent Company or its Affiliates have flow control over Construction and Demolition Waste that they collect within these or any other cities in the County of Sonoma, with the exception of such materials collected within the City of Petaluma, then they shall deliver such Construction and Demolition Waste to the County Facilities for processing, unless the County Manager approves delivery to a different location, such approval not to be unreasonably withheld. Similarly, Company shall deliver all Construction and Demolition Waste collected by Company in the Service Area to the County Facilities for processing, unless the County Manager approves delivery to a different location, such approval not to be unreasonably withheld. For the avoidance of doubt, "flow control" as used in this paragraph means the right of to deliver material to any facility, without violating any contractual requirement or requirement of law. All such materials shall be delivered and processed by Company in accordance with Company's subcontract with Republic Services under the Master Operations Agreement between the County and Republic Services.

ARTICLE 3

FRANCHISE FEE AND OTHER MISCELLANEOUS FEES

3.1 Franchise Fee. In consideration of the rights provided Company herein, Company shall pay to County franchise fees as described below.

3.1.1 October 1, 2009 – June 30, 2011. On or before the Commencement Date, Company shall pay to the County a franchise fee in the amount of \$2,000,000.

3.1.2 July 1, 2011 – June 30, 2012. Company shall pay to the County a franchise fee which shall be equal to the greater of: (a) 5% of Gross Revenues; or (b) \$1,331,280 (\$110,940 per month). The franchise fee shall be paid in accordance with Section 3.2 below.

3.1.3 July 1, 2012 – June 30, 2013. Company shall pay to the County a franchise fee which shall be equal to the greater of: (a) 7.5% of Gross Revenues; or (b) \$2,060,821 (\$171,735 per month). The franchise fee shall be paid in accordance with Section 3.2 below.

3.1.4 July 1, 2013 – June 30, 2014. Company shall pay to the County a franchise fee which shall be equal to the greater of (a) 10% of Gross Revenues; or (b) \$2,835,690 (\$236,308 per month) (hereinafter referred to as the “Base Franchise Fee”). The franchise fee shall be paid in accordance with Section 3.2 below.

3.1.5 July 1, 2014 - June 30, 2015. Company shall pay to the County a franchise fee which shall be equal to the greater of (a) 11% of Gross Revenues; or (b) \$3,154,871 (\$262,906 per month). The franchise fee shall be paid in accordance with Section 3.2 below.

3.1.6 July 1, 2015 - October 20, 2029. Company shall pay to the County a franchise fee which shall be equal to the greater of (a) 11% of Gross Revenues; or (b) the Base Franchise Fee as adjusted pursuant to Section 3.3 below.

3.2 Payment of Franchise Fees. Commencing October 1, 2015, Company shall pay said Franchise Fee to County by the 15th day of the month following the month the Gross Revenues are collected. Each such payment shall be accompanied by an accounting, which sets forth Company's Gross Revenues collected during the preceding month and shall include Summary Pay Cycle Report(s) generated from the Company's proprietary billing system summarizing the Gross Revenues collected. For the purposes of this Section, Company's Gross Revenues shall be documented in a form approved by the County. Commencing on October 1, 2016 and on each anniversary thereafter, Company shall provide County with an audited statement of Franchise Fees owed pursuant to this Agreement audited by a qualified independent certified public accountant licensed and in good standing in the State of California documenting Gross Revenues collected for Company's previous fiscal year period of July 1 through June 30. Such audited statement of Franchise Fees shall include a certification that the Company's Recycling Revenue Allocation Model reflects any changes resulting from the Company's waste characterization study. If the Franchise Fees paid for such period of time were less than the applicable Base Franchise Fee, Company shall remit the difference to the County within ten (10) business days. No acceptance by County of any payment 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 County may have against Company for any additional sums payable under this Agreement.

3.3 Adjustment to Base Franchise Fee. Commencing July 1, 2014, the Base Franchise Fee shall be increased by the CPI Factor. If the Base Franchise Fee, as adjusted pursuant to this Section 3.3, exceeds the applicable franchise fee percentage (i.e., 5% for 7/1/11 – 6/30/12; 7.5% for 7/1/12-6/30/13; or 10% from and after 7/1/14) of Gross Revenues, Company shall be entitled to an increase in rates to compensate it for the difference between the two, and to an adjustment to the franchise fee component of the rate set for the subsequent year to generate enough revenue to cover the Base Franchise Fees paid to County for such subsequent year as adjusted. Notwithstanding the foregoing, in the event the Base Franchise Fee is higher than the applicable percentage, County shall have the option to forego the Base Franchise Fee and instead accept the applicable percentage Franchise Fee in lieu of compensating Company for the difference between the two.

3.4 **Other Fees.** County shall reserve the right to set “other” fees, as it deems necessary as a pass-through.

ARTICLE 4

DIRECT SERVICES

4.1 **Solid Waste.**

4.1.1 **General.** Company shall provide collection, transportation, and delivery of Solid Waste in accordance with this Agreement, as well as processing of Source Separated Recyclable Materials. Services for the collection of all Solid Waste shall be provided at least weekly. After emptying, all containers used by the waste generator for the temporary storage of Solid Waste containers shall be returned to locations that do not impede pedestrian or vehicular traffic or otherwise present safety problems.

4.1.2 **Residential Single Family Dwelling Unit.**

- a) **Public Streets.** Company shall provide automated containers for Solid Waste collection, wherever feasible. Company shall collect contents of the containers not less than once per week. The method of collection and location for pick-up of residential Solid Waste containers shall at all times be consistent with this Agreement, and with County's Solid Waste collection, removal, and disposal Laws. Company shall service containers that are used for single family dwellings that are placed at the curb or roadway edge, so as to be readily accessible to the armature of the automated collection truck. In cases where placement of containers at the curb or roadway edge would present a safety hazard for motorists or pedestrians or represent a physical hardship to customers, Company shall designate an alternate location for the placement of the containers. The designated pick-up area, if disputed by the customer or Company, shall be determined by the County Manager. In such cases, Company shall be responsible for service of the container, irrespective of whether the automated armature can reach the container. However, Company shall not be obligated to provide off-sized containers or nonstandard containers unless otherwise required pursuant to Sections 4.1.2(b) or (c) below. Some residential locations may not be appropriate for standard automated service, due to the topography or road conditions. In such cases, customers may be required to supply their own Solid Waste containers. Any dispute between the Company and customer concerning the availability and use of automated containers shall be determined by the County Manager.

- b) **Private Roads.** Company shall provide collection services on private roads for Solid Waste, Recyclable Materials and Greenwaste where: (i) such roads have an all weather service and can accommodate a safe turn around area for the driver; (ii) it is not necessary for the driver to back up more than 50 feet to service the customer; and (iii) all customers along the private road sign damage waivers whereby such customer waive any damages. If all the foregoing conditions are met, and there are at least 20

customers located on the private road, then Company shall provide collection services to the private road customers at the standard Service Rates set forth in Exhibit E-1. If all the foregoing conditions are met, but there are less than 20 customers located on such private road, Company may negotiate a surcharge for such services for each customer up to the maximum allowed under Exhibit E-1 (see maximum private road surcharge fee).

- c) **Accommodations for Disabled Customers.** Notwithstanding any term or definition set forth in this Agreement, Company shall provide on-premises collection of residential Solid Waste, Recyclable Materials, and Greenwaste and to a Single Family Dwelling Unit if all adult customers residing therein have disabilities that prevent them from setting their Solid Waste, Greenwaste, or Recycling container at the curb for collection and if a request for on-premises service has been made to, and approved by, the County Manager in the manner required by County. The County Manager shall notify the Company in writing of any Single Family Dwelling Units requiring on-premises service; along with the date such service is to begin. No additional monies shall be due to the Company for the provision of on-premises service. Company shall provide on-premises Collection Service on the same work day that curbside collection would otherwise be provided in the area.

4.1.3 Commercial, Industrial and Multi-Family Dwelling Units. Company shall provide Garbage Bins and shall collect contents of such bins not less than once per week. Special consideration shall be given when determining the pick up area for commercial, industrial, and/or Multi-Family accounts to ensure that the flow of traffic is not impeded and that it does not result in aesthetic degradation of an area. The designated pick-up area, if disputed by customer or Company, shall be determined by County Manager. Additionally, if in the County Manager's opinion the location of an existing pick up area is inappropriate, the County Manager shall cause the customer or Company to relocate the pick up area.

4.1.4 Temporary Garbage Bins/Roll-Off Service. Company shall provide construction and temporary Garbage Bins and Roll-Off Containers for the purpose of collection of Solid Waste. Company shall deliver and collect Garbage Bins and Roll-Off Containers at the direction of the customer.

4.1.5 Notice for Non-Pick Up. In the event Company does not pick up Solid Waste, Recyclable Materials, or Greenwaste from any customer, Company shall notify customers by "can hanger" of the explanation of the reasons for non-pick up, or alternatively Company shall telephone the customer with an explanation on the same day as the intended pick up.

4.1.6 Bulky Item Pick-up Service.

- a) **Conditions of Service.** Company shall provide Bulky Item collection service to all Single Family Dwelling Units in the Service Area whose Bulky Items have been placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by the Company and customer, that will provide safe and efficient accessibility to the Company's

collection crew and vehicle. The customer shall be limited to three (3) cubic yards or three (3) Bulky Items per collection; however, in no event shall the aggregate of Bulky Item pick up service exceed the equivalent of three (3) cubic yards per pick up. Accordingly Company shall be compensated for the cost of collecting Bulky Items in excess of this limitation in accordance with the “Additional Large Item Collection” service rate as set forth in Exhibit E or as may be adjusted under the terms of this Agreement. Each Single Family Dwelling Unit in the Service Area shall be entitled to receive Bulky Item collection service up to four (4) times per calendar year, provided, however, that if a customer has an account that has been in place for less than 12 consecutive months, Company may limit the Bulky Item collection service to one time per quarter in each calendar year. Upon County’s request, Company will provide a 3-yard bin to customers who have established a specific need that cannot be satisfied through Company’s standard Bulky Item service.

- b) **Frequency of Service.** Bulky Item collection service shall be provided within seventy-two (72) hours of receipt of the request, excluding Sundays and holidays, as set forth herein.
- c) **Bulky Items Containing Freon.** In the event Company collects Bulky Items that contain Freon, Company shall handle such Bulky Items in a manner such that the Bulky Items are not subject to regulation as hazardous waste under applicable state and federal laws or regulations.
- d) **Bulky Item Collection Service for Multi-Family Dwelling Units and Mobile Home Parks.** Company shall provide Bulky Item collection service to all Multi-Family Dwelling Units and Mobile Home Parks at the request of the Multi-Family Dwelling Unit manager or Mobile Home Park manager in a manner agreed to between Company and such manager. Multi-Family Dwelling Units and Mobile Home Parks shall be entitled to equivalent complimentary services as a Single Family Dwelling Unit (i.e., three (3) cubic yards four (4) times per year). Notwithstanding the foregoing, if a customer has an account that has been in place for less than 12 consecutive months, Company may limit the Bulky Item collection service to one time per quarter in each calendar year.
- e) **Maximum Reuse and Recycling.** Company shall not landfill such Bulky Items unless the Bulky Items cannot be reused or recycled. Company shall dispose of Bulky Items collected pursuant to this Agreement in accordance with the following hierarchy:

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

4.2 Recycling.

4.2.1 General. Company shall provide automated containers for Recyclable Materials, and shall collect and remove all Recyclable Materials placed in Recycling containers at the designated collection locations for Single Family Dwelling Units, Multi-Family Dwelling Units, commercial, industrial, and institutional locations. Some residential locations may not be appropriate for standard automated Recycling containers due to the topography or road conditions. In such cases, customers may be required to supply their own Recycling containers. Any dispute between Company and customer concerning the availability and use of automated containers shall be determined by the County Manager. Materials collected shall be those specified by Company consistent with direction of County, and the Household Hazardous Waste Element and Source Reduction and Recycling Element Plans approved by County.

4.2.2 Frequency. Recyclable Materials collection from all sources within the Service Area shall be a minimum of once each week. Unless otherwise approved by County, residential Recyclable Materials collection will be on the same day of the week as Solid Waste collection service. Collection of Recyclable Materials from commercial customers shall be in accordance with a schedule established between Company and each commercial customer. Company will notify customers, as is done for regular service, regarding holiday collection schedules for Recyclable Materials.

4.2.3 Public Information. Company agrees to work diligently to promote and expand Recycling to meet the goals established to meet the requirements of the Act. Company shall develop and distribute promotional materials describing Recycling programs and encouraging Recycling to all residential, commercial, and industrial customers at least semi-annually, or more often if requested by County. These materials shall be submitted to County Manager for prior approval. A schedule for preparation and approval of promotional materials shall be submitted for approval of County by November 1 of each subsequent year.

4.2.4 Warning Notice. Company may refuse to collect Recyclable Materials and shall not be obligated to continue to provide any Recycling receptacle or container to any customer who, after reasonable warning, continues to place inappropriate materials in a Recycling container. Company shall report to County any warning notices issued and any proposed denial of service. In addition, Company may charge customers a contaminated recycling cart fee as set forth in the Service Rates.

4.2.5 Marketing and Sale of Source Separated Recyclable Materials. Company shall be responsible for processing, marketing and sale of all Source Separate Recyclable Materials collected pursuant to this Agreement and shall use its best efforts to divert as much material as possible from the Source Separated Recyclable Materials. Company shall sell all Source Separate Recyclable Materials collected pursuant to this Agreement at not less than fair market value. County shall have the right to request Company to provide to County Company's records, as to the tonnage and sales value of all Source Separate Recyclable Materials collected in the Service Area, regardless of whether such Recyclable Materials are processed within the Service Area or elsewhere, in such form and to the extent as County deems necessary to review Company's marketing methods, primary contingent markets, pricing policy, and assumed salvage

value for each collected type of Recyclable Material, as more thoroughly set forth in Section 7.2.2, below.

4.2.6 Notification of Delivery of Source Separated Recyclable Materials to a Non-Affiliated Company. If Company finds it necessary to divert Source Separated Recyclable Materials to a non-affiliated company in order to use its best efforts to divert as much material as possible from Source Separated Recyclable Materials as required by Section 4.2.5 above, Company shall notify County at least two (2) days before diverting such Source Separated Recyclable Materials to a non-affiliated company. Notification to County shall include a minimum justification for why the Source Separated Recyclable Materials must be diverted to a non-affiliated company, the physical location to where the Source Separated Recyclable Materials will be diverted, the estimated tonnage of Source Separated Recyclable Materials to be diverted to a non-affiliated company, and the anticipated diversion from the Source Separated Recyclable Materials diverted to a non-affiliated company. In addition, Company shall provide County with documentation showing the cost of the services and the amount of materials processed under this section and such amounts shall be reported on a quarterly basis to the County for the duration that Source Separated Recyclable material is delivered to a non-affiliated Company.

4.3 Greenwaste Program.

4.3.1 General.

- a) **Single Family Dwelling Units.** Company shall provide Greenwaste containers for and shall collect and remove all Greenwaste material placed in collection containers at the designated collection locations for Single Family Dwelling Units.
- b) **Multi-Family, Commercial and Institutional Customers.** Company shall also supply Greenwaste containers, Garbage Bins, or Debris Boxes, as appropriate, to multiple family, commercial, and institutional customers. Company shall collect the volume of Greenwaste material generated weekly at each single-family residential unit up to a maximum equivalent of one (1) cubic yard. One Greenwaste container per unit shall be the standard. Customers may request one additional Greenwaste container per unit at no additional charge. Company shall collect all Greenwaste generated from multiple family, commercial, and institutional unit customers.

4.3.2 Frequency. Greenwaste collection for Single Family Dwelling Units shall be made a minimum of once each week. Unless otherwise approved by County, Greenwaste collection for Single Family Dwelling Units shall be on the same day of the week as Solid Waste and Recyclable Material collection service for Single Family Dwelling Units. Multiple family, commercial, and institutional unit collections shall be in accordance with a schedule established between Company and the multiple family, commercial, and institutional unit customers. Service for these units shall also be provided on a weekly basis, unless generation of Greenwaste does not warrant such service to said multiple family, commercial, and institutional units.

4.3.3 Public Information. Company shall provide semi-annual distribution of information mailers informing residents of County of how to participate in the Greenwaste collection program. Said mailers shall be subject to prior approval of the County Manager.

4.3.4 Christmas Tree Collection Program. Company shall operate an annual Christmas Tree Collection Program. The program shall include, as a minimum service level, curbside collection of reasonably-sized whole trees during at least a one-week period each January, in addition to the collection of Christmas trees placed within the Greenwaste containers and collected pursuant to ordinary Greenwaste collection procedures. The Christmas tree collection program shall target all premises in the Service Area. Trees collected by Company shall be disposed of as directed by County. The program shall include communications to inform customers of program details. Communications shall be made annually and in a timely manner to all customers. Reasonable collection program criteria may be adopted by Company with the approval of County (e.g., dates for collection, size of acceptable trees, locations for tree collection, etc.).

4.3.5 Warning Notice. Company may refuse to collect Greenwaste and shall not be obligated to continue to provide any Greenwaste receptacle or container to any customer who, after reasonable warning, continues to place inappropriate materials in the Greenwaste container. Company shall report to County any warning notices issued and any proposed denial of service. In addition, Company may charge customers a contaminated greenwaste cart fee as set forth in the Service Rates.

4.4 Operations.

4.4.1 Schedules. To minimize inconvenience to the public, Solid Waste, Source Separated Recyclable Materials, and Greenwaste shall be collected from residential customers between the hours of 5:00 a.m. and 4:00 p.m. Commercial and Multi-Family Dwelling Units accounts that are adjacent to residential neighborhoods shall also be serviced between these hours. Otherwise, commercial, industrial and institutional accounts shall be collected between the hours of 4:00 a.m. and 4:00 p.m., Monday through Friday.

4.4.2 Alternate Collection Days. Company shall notify County and customers in writing at least two (2) weeks before an alternate collection day is scheduled, when the regularly scheduled collection day falls on July 4th, Labor Day, Thanksgiving Day, Christmas Day or New Year's Day. The County reserves the right to add to or subtract from the number of holidays should disposal hours change at the County Facilities or Greenwaste Facility.

4.4.3 Missed Pick-Ups. In the case of a missed pick-up, Company shall collect the Solid Waste, Recycling and Greenwaste within one (1) working day (24 hours) of being notified. Company shall not charge a fee in cases of missed pick-ups except where the customer has failed to place Solid Waste, Recycling or Greenwaste out for collection on the collection day. The amount of the return trip charge is set forth in the Service Rates.

4.4.4 Collection Routes.

- a) **Service Routes.** The Company has provided the County with maps precisely defining collection routes, together with the days and the times at which collection shall regularly commence. Where a route includes Multiple Jurisdiction Routes, Company has calculated the number, volume and types of service provided to each city or County account, and used that to calculate a percentage (%) split for allocation of the waste between the two jurisdictions. This method (or any other reasonable method approved by the County Manager) shall be used to allocate tonnages between jurisdictions. Company shall provide County with annual updates on February 1st of each year of all service route information.
- b) **Service Route Changes.** Prior to making any changes to any Multi Jurisdictional Route where such change will have an impact on the amount of waste which should be allocated to the jurisdictions, the Company shall submit to the County, in writing, the proposed route change (including maps thereof) not less than thirty (30) calendar days prior to the proposed date of implementation. The Company shall not implement any route changes, if the change will change the collection day for a Customer, without first providing at least fourteen (14) days advance notice to those customers in writing.
- c) **Collection Route Audits.** The Company shall conduct audits of Company's collection routes on an annual basis. The collection route audits shall consist of a field verification comparing the customer accounts to actual services being provided. During such collection audit, Company shall also conduct a random sampling of the routes to determine customer's adherence to Source Separated Recyclables.

4.4.5 Annual Review of Collection Routes. Company may be required to review its operations plan with the County Manager upon written request provided not less than thirty (30) days prior to the review. The review may occur once annually and will focus on the collection, routes, intervals of collection and collection times for all materials collected under this Agreement. More frequent reviews may be required if operations are not satisfactory based on documented observations, reports, or complaints. If the plan is determined to be inadequate by the County Manager, Company shall revise the plan incorporating any changes into a revised plan and review the revised plan with County Manager within thirty (30) calendar days.

4.4.6 Vehicles.

- a) **General.** Company shall provide a fleet of collection vehicles sufficient in number and capacity to efficiently perform the work required by the Agreement in strict accordance with its terms. Company shall have available on collection days sufficient back-up vehicles for each type of collection vehicle (e.g., residential, commercial, and roll-off) used to respond to complaints and emergencies.
- b) **Specifications.** All vehicles used by Company in providing Solid Waste, Recycling, construction and demolition debris, and Greenwaste collection services shall be

registered with the California Department of Motor Vehicles. All such vehicles shall have watertight bodies designed to prevent leakage, spillage, or overflow.

- c) **Vehicle Identification.** Company's name, local telephone number, and a unique vehicle identification number designed by Company for each vehicle shall be prominently displayed on all vehicles, in letters and numbers no less than two and one-half (2 1/2) inches high.

- d) **Cleaning and Maintenance.** Company 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. Company shall maintain a maintenance log for all collection vehicles. The log shall at all times be accessible to County by physical inspection upon request of County Manager, and shall show, at a minimum, each vehicles' assigned identification number, date purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed. Vehicles used in the collection of Solid Waste, Source Separated Recyclable Materials, and Greenwaste shall be painted, thoroughly washed, and thoroughly steam cleaned on a regular basis so as to present a clean appearance. County may inspect vehicles at any time to determine compliance with this Agreement. Company shall also make vehicles available to the County Division of Environmental Health for inspection, at any frequency it requests. Company shall re-paint all vehicles during the term of the contract on a frequency necessary to maintain a positive public image, and in no event shall the re-painting interval exceed 60 months. Company shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles that are not operating properly shall be taken out of service until they are repaired and do operate properly. Company shall perform all scheduled maintenance functions in accordance with the manufacturer's recommendations, specifications, and schedule. Company shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown, or any other cause so as to maintain all equipment in a safe and operable condition. If an item of repair is covered by a warranty, Company shall obtain warranty performance. Company shall maintain accurate records of repair, which shall include the date/mileage, nature of repair, and the signature of a maintenance supervisor affirming that the repair has been properly performed.

- e) **Vehicle Inventory List.** On or before the Commencement Date, Company shall provide to County an inventory of collection vehicles and major equipment used by Company for collection or transportation and performance of services under this Agreement. The inventory shall indicate each collection vehicle by Company assigned identification number, DMV license number, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, and the maintenance and rebuild status. Company shall submit to the County Manager, either by fax or e-mail, an updated inventory when the vehicle inventory list changes; quarterly and annually as part of the annual report submitted according to Section 7.2 (Reports) above; or more often at the request

of the County Manager. Each inventory shall also include the tare weight of each vehicle. Each vehicle inventory shall be accompanied by a certification signed by Company that all collection vehicles meet the requirements of this Agreement.

- f) **Vehicle Storage.** Company shall arrange to store all vehicles and other equipment in safe and secure location(s) in accordance with County and County's applicable zoning regulations.
- g) **Vehicle Certification.** For each collection vehicle used in the performance of services under this Agreement, Company shall obtain a certificate of compliance (smog check) issued pursuant to Part 5 of Division 26 of the California Health and Safety Code (Section 43000 *et seq.*) and regulations promulgated thereunder and/or a safety compliance report issued pursuant to Division 14.8 of the California Vehicle Code (Section 34500 *et seq.*) and the regulations promulgated thereunder, as applicable to the vehicle. Company shall maintain copies of such certificates and reports and shall make such certificates and reports available for inspection upon request by the County Manager. No later than ninety (90) days after the regularly scheduled inspection, Company shall submit to the County Manager verification that each of the Company's collection vehicles has passed the California Heavy Duty Vehicle Inspection. Thereafter, Company shall cause each vehicle in Company's collection fleet to be tested in accordance with the requirements of the California Heavy Duty Inspection Program and shall submit written verification to County within ten (10) Work Days of the completion of such test. Company shall not use any vehicle that does not pass such inspection.
- h) **Vehicle Operation and Specifications.** Vehicles shall be operated in compliance with the California Vehicle Code and all applicable safety and local ordinances. Company shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local weight restrictions on vehicles. All vehicles shall have watertight bodies designed to prevent leakage, spillage, or overflow. Company equipment used for Solid Waste, Recycling, and Greenwaste services shall be registered with the California Department of Motor Vehicles. Equipment shall comply with U.S. Environmental Protection Agency noise emission regulations and other applicable noise control regulations. Company shall store all equipment in safe and secure locations. Company shall be responsible for any extraordinary damage caused by its trucks and other vehicles to County driving surfaces, whether or not paved, and associated curbs, gutters and traffic control devices, which damages shall exclude normal wear and tear resulting from proper use of such vehicles. Nothing herein shall create liability for County for damages caused to such property by Company; nor shall this Agreement create liability by Company to owners (including private drives) where liability would not otherwise exist at law. As required by existing law in effect as of the Execution Date. Company shall convert and/or retrofit its vehicles and/or fuel utilizing the most cost-effective means to reduce air pollutant emissions and at all times be in full compliance with local, state, and federal clean air requirements that were adopted or proposed to be adopted, including the proposed California Air Resources Board Heavy Duty Engine Standards to be contained in

CCR Title 13, Section 2020 *et seq*; and the Federal EPA's Highway Diesel Fuel Sulfur regulations. All of Company's costs of compliance with such clean air requirements in effect as of the Execution Date shall be considered an ordinary cost of business. Such costs shall not constitute a basis for a rate adjustment under of this Agreement.

4.4.7 Containers.

- a) **Residential Solid Waste Containers.** Residential customers may select from 20 gallon, 32 gallon, 68 gallon, or 95 gallon Solid Waste containers, which will be supplied by Company. Said containers shall be constructed of heavy gauge plastic with wheels and attached lids. A 20 gallon can service level shall be provided by Company through use of the 32 gallon can with an insert or other means suitable for automated collection.
- b) **Non-Residential Solid Waste Garbage Bins.** Company shall furnish customers appropriate containers to collect Solid Waste at Multifamily Dwelling Units, commercial, and other non-residential customers. Garbage Bins shall meet applicable regulations for Solid Waste Garbage Bin safety and shall be available in standard sizes. The kind, size, and number of Garbage Bins furnished to particular customers shall be as determined mutually by the customer and Company. Garbage Bins shall have lids. All Garbage Bins shall have reflectorized markings where appropriate, and shall be maintained in good repair with neat and uniformly painted surfaces. Garbage Bins shall be free of graffiti and in good repair. Garbage Bins must be clearly marked and identifiable as belonging to Company. Company shall steam clean Garbage Bins at least once per year.
- c) **Recycling Containers.** Single Family Dwelling Unit customers may select one (1) or two (2) 68-gallon or 95-gallon single stream Recycling containers which will be supplied by the Company as a part of Solid Waste service. One Recycling container per unit will be the standard. Customers may request one (1) additional container which will be supplied at no additional cost. Said containers shall be constructed of heavy gauge plastic with wheels and attached lids. Company shall provide and distribute appropriate Recycling containers to all Multi-Family Dwelling Units, commercial, industrial and institutional Entities as required by Section 4.2 above.
- d) **Greenwaste Containers.** Company shall supply each single family residential unit customer with one (1) or two (2) 68-gallon or 95-gallon Greenwaste containers. One Greenwaste container per unit will be the standard. Customers may request one (1) additional Greenwaste container at no extra charge. In other words, every single family residential unit is supplied one, but if they want two at their request it shall be supplied at no additional charge. The size of the Greenwaste container shall be determined by the customer.
- e) **Replacement Containers.** Company shall be responsible for reasonable maintenance and replacement of all containers. Company may inform customers that

containers are to remain at the residence upon sale or transfer of the property. To the extent that containers are lost or stolen, Company shall provide new containers to the customer at no cost, provided that Company shall not be required to supply more than one replacement container to any residence within a one-year period unless circumstances demonstrate that customer had no responsibility for the loss or damage to the container, then, Company shall provide new containers to the customer at no cost. At the end of the Term of this Agreement, including any extensions provided hereunder, the containers shall be property of the Company, and Company shall be responsible for removal of the containers from all residential and commercial customers, unless alternative arrangements for disposition of the containers are agreed to by Company and County.

4.4.8 Litter Abatement.

- a) **Minimization of Spills.** Company shall use due care to prevent Solid Waste from being spilled or scattered during the collection or transportation process. If any Solid Waste is spilled during collection, Company shall promptly clean up all spilled materials. Each collection vehicle shall carry a broom and shovel at all times for this purpose. Without prior written approval by the County Manager, Company 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) **Clean Up.** During the collection or transportation process, Company shall clean up litter in the immediate vicinity of any Solid Waste storage area (including the areas where any Garbage Bin, Roll-Off Container and Debris Boxes are delivered for collection) whether or not Company has caused the litter. Company shall discuss instances of repeated spillage not caused by it directly with the waste generator responsible and will report such instances to County. County Manager will attempt to rectify such situations with the waste generator if Company has already attempted to do so without success.
- c) **Covering of Loads.** Company shall cover all open Debris Boxes during transport to the County Facilities.

4.4.9 Personnel. Company shall furnish such qualified drivers, mechanical, supervisory, clerical, management, and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical, and efficient manner. All drivers shall be trained and qualified in the operation of vehicles they operate and must possess a valid license, of the appropriate class, issued by the California Department of Motor Vehicles. Company also agrees to establish and vigorously enforce an educational program that will train Company's employees in the identification of Hazardous Substances. Company's employees shall neither knowingly place such Hazardous Substances in the collection vehicles, nor knowingly deliver such Hazardous Substances to the County Facilities. Company shall train its employees in customer courtesy, shall prohibit the use of loud or profane language, and shall instruct collection crews to perform the work quietly. Company shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. If any

employee is found to be discourteous or not to be performing services in the manner required by this Agreement, Company shall take all necessary corrective measures including, but not limited to, transfer, discipline, or termination. If County has notified Company of a complaint related to a discourteous or improper behavior, Company will consider reassigning the employee to duties not entailing contact with the public while Company is pursuing its investigation and corrective action process. Company shall provide suitable operations, health, and safety training for all its employees who use or operate equipment or who are otherwise directly involved in collection or other related operations.

4.4.10 Identification Required. Company shall provide its employees, companies, and subcontractors with identification for all individuals who may make personal contact with residents or businesses in the Service Area. County may require Company to notify customers yearly of the form of said identification. Company shall provide a list of current employees, companies, and subcontractors to County upon request.

4.4.11 Non-Discrimination. Company shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

4.4.12 Report of Accumulation of Solid Waste; Unauthorized Dumping.

Company shall direct its drivers to note the address or other location description, of any premises at which they observe: (1) Solid Waste accumulating that is not being delivered for collection; (2) Solid Waste having been dumped in an apparent unauthorized manner; and/or (3) Solid Waste accumulating due to customer subscribing to an inadequate service level. Company shall deliver the address or description to County within five (5) working days of such observation.

4.5 Diversion Requirements.

4.5.1 Minimum Diversion Requirements. The County requires the Company to achieve a minimum annual diversion rate which exceeds forty-five percent (45%) of all such commercial Source Separated Recyclable Materials throughout the entire term that Company is obligated to process such materials, plus all Non Franchised Recycling Materials. The annual diversion rate will be calculated as the tons of materials collected within the Service Area that are sold or delivered to a recycler or reuser, divided by the total tons of materials collected in the Service Area during the contract year. Company may include recyclable materials diverted by customers within the Service Area through means other than collection by Company towards their annual diversion rate, but only if Company will not achieve a 100% Diversion Adjustment without the credit. In no event shall recyclable materials diverted by customers within the Service Area through means other than collection by Company count towards a diversion adjustment of greater than 100%. Supporting documentation that the material was diverted from the landfill shall be provided to the County in order for the material to be recognized for diversion credit.

4.5.2 Diversion Adjustment. Beginning with the July 1, 2011 rate adjustment, the following diversion adjustment shall be applied to the Service Rates in accordance with Section 6.2 below. The diversion adjustment shall be based on the diversion rate achieved by the Company in the Company's previous fiscal year. The diversion adjustment shall be as follows:

Diversion Rate Between	Diversion Adjustment
0 – 24.99%	50%
25 – 34.99%	70%
35 – 44.99%	90%
45 – 49.99%	100%
50 – 54.99%	110%
55 – 59.99%	120%
Over 60%	125%

4.5.3 Diversion Data. On or before February 15, 2021 and annually thereafter during the term of this Agreement, the Company shall deliver to the County diversion data for the specific services performed under this Agreement in the format specified by the County. If the Company fails to submit the diversion data in the required format by March 15, County may give notice to Company that County intends to not apply any rate adjustment to the Service Rates for that year. Should Company fail to provide the diversion data within ten (10) days of such notice, it is agreed that the Company shall be deemed to have waived the entire rate adjustment to the Service Rates for that year.

ARTICLE 5

OTHER SERVICES

5.1 Mandatory Company Billing Services.

5.1.1 Billing. Company shall prepare, mail and collect bills, and issue written receipts for cash payments, for Solid Waste collection services provided by Company under this Agreement. County shall have the right to stipulate the billing information to itemize certain charges including County fees imposed under Section 3.4 above.

- a) **Residential Billing.** Except for billings to Multi-Family Dwelling Unit customers, bills for residential service shall be mailed to customers quarterly. Company may mail bills at the beginning of the quarter, and they are due and payable upon mailing, and if not paid, become delinquent thirty (30) days after the end of the billing period. Company shall add an administrative late charge of 10% per month for amounts due and remaining unpaid for a period sixty (60) days after the end of the billing period. In addition, Company shall be allowed to discontinue collection service to any customer whose billing remains unpaid for a period of sixty (60) days after the end of the billing period, provided Company complies with Section 5.3.1.

- b) **Non-Residential Billing.** Commercial, industrial, institutional, and Multi-Family Dwelling Unit customers shall be billed monthly, for one (1) month in arrears. Such bills are due and payable upon mailing and, if not paid, become delinquent thirty (30) days after the end of the billing period. The service charge for late payment, and service cancellation provisions shall be the same as those for residential customers listed above.
- c) **Special Services Billing.** Company may require full payment for Debris Boxes or other special services prior to delivery of Debris Box or the provision of other special services by Company.
- d) **Mobile Home Parks.** Company shall charge a discounted rate to Mobile Home Parks if one bill is sent to the manager, and manager remits on behalf of all residents. If each individual homeowner receives a separate billing and pays their own separate bill, rate is same as residential unit. Recycling services and weight restrictions are the same as for residential units.
- e) **Discount for Low Income Customers.** From April 1, 2020 onward, Company shall provide a minimum 20% discount to low income Single-Family Dwelling Unit customers that are enrolled in PG&E's California Alternate Rates for Energy Program (commonly known as the "CARE Program"). Should the CARE Program cease to exist, the parties will negotiate in good faith to determine a comparable replacement. Company may require customers to submit documentation verifying their enrollment in the CARE Program, and to update that documentation annually, as a condition of receiving the discount. The discount shall not be applied retroactively.

5.1.2 Review of Billings. Without limiting any of County's rights to inspect Company's records hereunder, the County Manager may require that Company review its billings to customers. The purpose of the review is to determine that the amount Company is billing each customer is correct in terms of the level of service (i.e., frequency of collection, size of container, location of container) being provided to such customer by Company. Company shall review customer accounts not less than every other year, unless County shall direct Company to do so more frequently, and submit to County a written report of that review annually on the anniversary of the effective day of this Agreement, unless otherwise directed by County Manager. For exceptions found, Company shall verify their records with drivers to confirm actual service being provided. Company shall submit to County a written report on that review, noting any and all exceptions needing correction, by the first day of February, commencing February 1, 2021. The intent of this section is for County to have the right to receive reports that will cover the entire list of customers every other year. The scope of the review and the Company's work plan shall be submitted to County for approval prior to submission of the first report.

5.2 Customer Service.

5.2.1 Company Office. Company's current office location is in Santa Rosa. Office hours shall be, at a minimum, from 8:00 a.m. to 4:30 p.m., Monday through Friday, exclusive of holidays. A responsible and qualified representative of Company shall be available during office hours for communication with the public. Normal office hour telephone numbers shall either be a local or toll free call. The local and/or toll free number shall be printed on all Company bills or invoices for service and listed in the local telephone book. Company's telephone system shall be adequate to handle the volume the calls typically experienced on the busiest days. Company shall also maintain a local or toll free telephone number for after-hours. Company shall have a representative, or answering machine/message service (voice mail) available at said after-hours telephone number.

5.2.2 Complaints. All service complaints shall be directed to Company. A representative of the Company shall be available to receive complaints during normal business hours. All service complaints will be handled by the Company in a prompt and efficient manner. In the case of a dispute between the Company and the customer, the matter will be reviewed and a decision made by the County Manager. Company may appeal the decision of the County Manager to the Director of Transportation and Public Works within 10 days of the receipt of the decision. Customers will be advised that any unresolved complaint can be forwarded to County in accordance with Section 5.2.3. All complaints alleging that Company personnel have mixed Recyclable Materials or Greenwaste with Solid Waste, have missed collection, have failed to pick up litter, have refused to pick up unauthorized wastes, or have engaged in unsafe driving will be logged. Also, all complaints alleging Company failure to maintain vehicles, equipment, or Solid Waste containers shall be logged. Such log will be available for review by County upon request. All customer service records and logs kept by Company shall be available to County upon request and provided at no cost to County. County shall, at any time during regular Company business hours, have access to Company's customer service department for purposes that may include monitoring the quality of customer service or researching customer complaints.

5.2.3 Resolution of Customer Complaints. Company shall notify customers of the complaint procedure at the time customers apply for or are provided service, and subsequently in the new customer brochure provided for in Section 5.4.3 herein. A customer dissatisfied with Company's response regarding a complaint may ask County to review the complaint. To obtain this review, the customer must submit a written request within thirty (30) days of the original complaint to Company if Company has failed to respond to the complaint. County may extend the time to request its review for good cause. In reviewing the complaint, the County Manager shall seek a response and remedy by Company. The County Manager shall determine if the customer's complaint is justified, and if so, what remedy if any shall be provided. The County Manager may delegate these duties to a designee. The decision of the County Manager or his/her designee shall be final on any matter under Five Hundred Dollars (\$500). In the event of a decision on a matter involving Five Hundred Dollars (\$500) or more, Company may seek review by the Director of Transportation and Public Works.

5.2.4 Company Liaison. Company shall designate in writing a "company liaison" who shall be responsible for working with the County Manager to resolve customer complaints.

5.3 Discontinuance of Collection Service and/or Refusal to Collect.

5.3.1 Discontinuance of Service. If Company elects, pursuant to Section 5.1.1 to discontinue collection service for failure to pay for said services, the Company shall, prior to discontinuance: (1) provide the customer with thirty (30) days prior written notice of the intent to discontinue service and (2) provide County with fifteen (15) days prior written notice of the intent to discontinue service to said customer. Company shall not, however, discontinue service until resolution of any good faith disputes concerning amounts due Company.

5.3.2 Refusal to Collect. Company may, at its discretion, refuse to collect waste and/or Recyclable Materials from any customer who uses a non-standard sized container for disposal of wastes or collection of Recyclables. Company may refuse to collect any waste containing Hazardous Substances. Company shall immediately notify County of any Hazardous Substances left for collection by said customer. Company may, at its discretion, refuse to collect any Source Separated Recyclable materials where such containers contain significant amounts of Solid Waste that is commingled with Recyclable Materials. If Company refuses to collect such container from a customer, Company shall promptly provide said customer with a written explanation or alternatively, Company shall telephone the customer with an explanation on the same day as the intended pick up. Company shall maintain a log of such events.

5.4 Education and Public Awareness.

5.4.1 General. Company agrees to take initiatives to exploit opportunities to expand public and customer knowledge concerning needs and methods to reduce, reuse, and recycle Solid Waste and to cooperate fully with the County in this regard. Education and public awareness expenditures to be included as operating costs under this Agreement are identified in this and other sections of this Agreement. Company shall maintain its own program of providing information relevant to Solid Waste and Recycling issues with its bills, provided, however that, the County Manager shall review and approve all such educational and public awareness materials prior to distribution to any customers. In addition, Company shall also include with customer billings such additional information as requested by County. County shall normally bear the expense of reproduction and distribution of such additional information only to the extent it is clearly in excess of Company's normal billing costs.

5.4.2 Service Newsletter. Company shall periodically prepare and distribute at least twice annually, subject to prior review and approval from the County Manager, a newsletter to each owner or occupant of property entitled to service under this Agreement. The newsletter shall contain a listing of Company's contact information and a general summary of services required to be provided hereunder and optional service that may be furnished by Company. The newsletter shall also inform customers of Recycling and waste diversion opportunities, and explain use of Recycling and waste diversion services offered by Company and other specific information that will assist in the efficient collection of Solid Waste, Greenwaste, and Source Separated Recyclable Materials. The newsletter may be included with billings made by Company.

5.4.3 New Customer Brochure. Company shall also prepare and update annually a brochure for mailing to all new customers entitled to service under this Agreement. The brochure shall contain a listing of Company's collection rates, annual holiday schedule and a general summary of services required to be provided hereunder and optional service that may be furnished by Company. This brochure shall include information appropriate to allow a new customer to participate fully in the Solid Waste, Recycling, and Greenwaste programs offered by Company. Company shall include any specific information as may be requested by County. The brochure, and any revisions thereto, shall be reviewed and approved by the County Manager prior to distribution.

5.4.4 Media Advertising/Release. Company may be required by County to develop and maintain an effective media advertising program. Company may be directed to provide advertising that describes the progress and success of Company's involvement in Recycling, Greenwaste, and other source reduction programs, and special Company events. All advertising developed by Company pursuant to such a program shall be submitted to the County Manager for prior review and approval.

5.5 Waste Generation/Characterization Studies. Company acknowledges that County must perform Solid Waste generation and disposal characterization studies periodically to comply with Act requirements. Company agrees to participate and cooperate with County and any other agency designated by County to accomplish studies, data collection, and prepare reports as needed to determine weights and volumes of waste and characterize waste generated, disposed, transformed, diverted, or otherwise handled/processed to satisfy Act requirements.

5.6 Street Sweeping Services. Company shall provide the following street sweeping services for the portions of the Service Area identified Amended Exhibit F:

Effective as of July 1, 2020, Company shall be paid a lump sum amount of \$136,976.28 for all street sweeping services provided during the period of July 1, 2019 to June 30, 2020 and \$141,359.52 for the period of July 1, 2020 to June 30, 2021. Such lump sum amount shall be adjusted annually by the CPI Factor for subsequent years, regardless of the number of hours or length of time necessary for Company to complete the street sweeping services described in Amended Exhibit F. Company shall not be entitled to any additional payment for any expenses incurred in completion of the services. Should the County request additional street sweeping services (different routes or higher frequency), such services shall be provided at an hourly rate of \$110 per hour, effective April 1, 2020, which rate shall be subsequently adjusted on an annual basis by the CPI Factor.

Company may submit its bills in arrears for payment on a monthly basis in the amount of one-twelfth (1/12th) of the lump sum amount in a form approved by County's Auditor and the Director of the Department of Transportation and Public Works, or designee. The monthly bills shall identify the services completed and the amount charged.

5.6.1 General Street Sweeping Requirements.

- a) Company shall supply street sweeping equipment, including all parts and accessories. Company shall be solely responsible for the licensing, operation, maintenance, and repairs of its street sweeping equipment. Company shall clean and maintain equipment.
- b) Equipment must be equipped with efficient water spray system for dust control, and the spray system must be maintained in good operating conditions.
- c) Equipment must be properly registered and insured in accordance with the motor vehicle laws of the State of California.
- d) All equipment used by the Company shall be kept in a neat and clean appearance, maintained in top mechanical condition and properly adjusted, from an operational standpoint and from a safety standpoint. All sweepers shall be equipped with an operational rotating amber dome light and flashing lights.
- e) A sufficient supply of spare brooms and other parts shall be readily available to ensure the timely and continuous fulfillment of the Agreement.
- f) Equipment must be capable of removing litter, leaves, and debris.
- g) Equipment must conform to all federal, state, and local safety and environmental regulations. The County may conduct random checks to ensure compliance.
- h) Vehicles must be equipped with dual gutter brooms and one suction head capable of sweeping bike paths five (5) to eight (8) feet wide.
- i) Equipment operators are required to have the proper licenses to operate the equipment.

5.6.2 Frequency and Hours of Street Sweeping. Street sweeping shall occur six (6) times per year. Street sweeping in residential areas may occur only between the hours of 6:00 a.m. and 6:00 p.m. and in commercial areas, only between the hours of 2:00 a.m. and 6:00 p.m. or as otherwise posted.

5.6.3 Holidays. During the weeks of holidays, street sweeping shall be delayed by one day following the holiday, except when the holiday falls on a Saturday or Sunday.

5.6.4 Company's Obligations.

- a) Company will provide fuel and maintenance for street sweeping equipment.
- b) Company must have a supervisor or foreman available to direct street sweeping operations.
- c) Company will provide water as needed.

- d) Company shall dispose of street sweepings at the County Facilities.
- e) Street sweeping schedules shall be posted on Company's website for public availability.
- f) Company shall provide the street sweeping schedule in the biannual public newsletter.

5.7 Roadside Pickup/Clean-up/Dead Animal Removal Program. Company shall provide, at a minimum, one (1) truck and two (2) employees to pick up dead animals, litter, and other roadside dumping from unincorporated Sonoma County roads on a full-time basis (minimum 40 hours per person per week). The Company shall pick up all types of domestic animals and wild animals, including small wild animals such as raccoons, opossums, fox, wild turkeys, etc., that are approximately ten (10) pounds or greater. Company shall not be responsible for picking up very small wild animals such as squirrels, snakes or small birds, etc., which would generally be less than ten (10) pounds. These services shall be provided at the direction of the County Manager. Company shall respond to request for roadside clean-up with 72 hours of notice from the County Manager. Company shall create a monthly log of all roadside clean-ups requested which include the date and time and location of the response and the labor, tools and equipment used to pick-up, and transport waste to the disposal facility. In addition, the dedicated truck and employees shall undertake a roving litter pickup program along unincorporated Sonoma County roads as well as roads identified in Amended Exhibit F. This service will be provided 5 days per week on regularly scheduled routes designed to cover all the main thoroughfares regularly and be on call to provide service to more remote areas.

For the period of July 1, 2019 to June 30, 2020, Company shall be paid a lump sum amount of \$188,206.92 for the roadside pickup services described in this Section 5.7. For the period of July 1, 2020 to June 30, 2021, Company shall be paid a lump sum amount of \$194,229.54. Such lump sum amount shall be adjusted annually by the CPI Factor for subsequent years. Company shall not be entitled to any additional payment for any expenses incurred in completion of the services.

Company shall submit its bills in arrears for payment on a monthly basis in the amount of one-twelfth (1/12th) of the lump sum amount in a form approved by County's Auditor and the Director of the Department of Transportation and Public Works, or designee. The monthly bills shall identify the services completed and the amount charged.

5.8 Emergency Service Provisions. In the event of a flood, tornado, major storm, earthquake, fire, natural disaster, or other such event, the County Manager may grant the Company a variance from regular routes and schedules. As soon as practicable after such event, the Company shall advise the County Manager when it is anticipated that normal routes and schedules can be resumed. The County Manager shall make an effort through the local news media to inform the public when regular services may be resumed. The parties recognize that the County intends to maintain separate as needed-contracts to support clean up response efforts following large scale

catastrophic events and that this Agreement is not intended to govern the provision of such services as long as such contracts are in place. However, upon County's request, Company shall hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from smaller-scale events within the Service Area. For the purposes of this Agreement, smaller-scale events shall mean those events for which no disaster declaration is made by any local, state or federal authority, and large-scale events shall mean those events for which such a declaration is made. In the event that separate agreements with the County to support a clean up response to a large-scale event are not in place when the need arises, Company agrees to provide such services as may be requested by County in accordance with the provisions of this Agreement. The Company shall receive additional compensation, above the normal compensation contained in this Agreement, to cover the costs of rental equipment, additional personnel, overtime hours and other documented expenses based on the rates set forth in Amended Exhibit E-4 to this Agreement, provided the Company has first secured written authorization and approval from the County through the County Manager. Company shall not have the exclusive right to the provision of emergency clean-up services. County shall have the right to contract with additional service providers to provide clean-up services within Company's Service Area as needed during a large-scale emergency event.

- 5.9 Waste Characterization Services and Audits.** Company shall conduct waste characterization studies if requested by the County (but no more frequently than annually) on the Source Separated Recyclable materials that it processes for diversion under this Agreement in order to identify the percentage of Recyclable Materials by type. Such information shall be used to allocate revenues from the sale of Recyclable Materials under this Agreement. Company shall notify the County Manager fourteen (14) days in advance of the date that the waste characterization study is to be done so that County Manager may observe the study, if he or she so desires. The Company currently allocates the sale of Recycle Materials under this Agreement by the number of County recycle routes covered under this Agreement. The audited statement of Franchise Fees defined in Section 3.2 (Payment of Franchise Fee) shall include certification that the Company's Recycling Revenue Allocation Model reflects one of the allocation methods described in this section.

ARTICLE 6

COMPENSATION AND RATES

- 6.1 Collection Services.** Company shall be responsible for the billing and collection of payments for all collection services. Company shall charge customers the Service Rates established in the following Exhibits, as such rates may be adjusted under the terms of this Agreement:

Residential Service Rates – Amended Exhibit E-1
Multi-Family Dwelling Unit and Commercial Service Rates – Amended Exhibit E-2
Debris Box Service Rates – Amended Exhibit E-3
Emergency Services Service Rates – Amended Exhibit E-4
Bulky-Item Service Rates – Amended Exhibit E-5

If, during a month, a customer is added to or deleted from the Service Area, the Company's billing shall be pro-rated based on the weekly Service Rate, which is the Service Rates established in Amended Exhibits E-1 and E-2 divided by four, times the number of actual weeks in the month that service was provided to the customer. As of the Effective Date, if Company offers certain customers special services not described in Amended Exhibit E that Company intends on phasing out over time, Company shall not be obligated to provide such special services to any new customers.

- 6.2 Adjustment in Service Rates.** Beginning July 1, 2011, and annually thereafter until December 31, 2015, Company shall receive an adjustment based on the adjustment formulas set forth in Exhibit G. Beginning January 1, 2016, Company shall receive the annual adjustment on April 1 of every year instead of July 1. The adjustment formula is amended as of the date of this Amended and Restated Agreement to read as set forth in Amended Exhibit G, and the revised formula shall be utilized for the rate adjustments effective April 1, 2020 and each April 1 thereafter.
- 6.3 Adjustments for Franchise Fees and Pass-Throughs.** Company shall receive an adjustment to the Service Rates for Franchise Fees and any pass-through fees set by the County pursuant to Section 3.4 above. The adjustment formula is amended as of the date of this Amended and Restated Agreement to read as set forth in Amended Exhibit G, and the revised formula shall be utilized for the rate adjustments effective April 1, 2020 and each April 1 thereafter.
- 6.4 Adjustments for Future Federal, State or Local Government Mandates.** Company may apply for consideration of a special rate adjustment should there be a future federal, statewide or local government mandate which is principally directed at and the effect of which is principally borne by either Company or owners of Solid Waste collection businesses located in California or within the local jurisdiction that is imposing the new mandate. Company shall not be entitled to a rate adjustment for any federal, statewide or local government mandate that: (1) results from, arises out of or is caused by (A) any failure to perform or breach of the Agreement by Company or any Affiliate, (B) violation of other applicable Law by Company, (C) negligence, recklessness, willful misconduct, fault, culpable act or culpable omission by Company or any Affiliate or (D) non-compliance by Company or any Affiliate with any Governmental Authority permits, consents, approvals, directives, in each case, on the part of Company or its Affiliates; or (2) any rules, regulations or standards issued pursuant to the Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, and Greenhouse Gases from In-Use Heavy Duty Diesel-Fueled Vehicles, Cal. Code Regs, title 13, section 2025.
- 6.5 Adjustments for Change in Disposal Location.** In the event one or more of the Transfer Stations of the County Facilities is permanently closed, Company may apply for consideration of a special rate adjustment to address any increased hauling costs.

ARTICLE 7

RECORDS, REPORTS, AND INFORMATION REQUIREMENTS

7.1 Records.

7.1.1 General. Company shall maintain records required to conduct its operations, to support requests it may make to County, and to respond to requests from County. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft, and earthquake. Electronically maintained data/records shall be protected and backed up. Company agrees that the accounting and other records of any and all companies conducting operations addressed in the Agreement, including Related Party Entities, shall be provided or made available to County and its agents and/or representatives during normal business hours. Company shall allow and permit County Manager or County representatives to audit its accounting records and all other records required by this Agreement, and, further, to meet with Company representatives to verify data. Company shall cooperate to the fullest extent with County during such an audit process.

7.1.2 Maintenance of Financial and Operational Records.

- a) **General.** In order to effectuate the payment of Franchise Fees required by Article 3, it is necessary for Company to maintain accurate, detailed financial and operational information in a consistent format and to make such information available to County in a timely fashion.
- b) **Company's Accounting Records.** Company shall maintain accurate and complete accounting records containing the underlying financial and operating data relating to and showing the basis for computation of all Franchise Fees. The accounting records shall be maintained in accordance with Generally Accepted Accounting Principles (GAAP) consistently applied. The purpose, method of calculation and support for all cost allocations shall be documented and maintained. County shall notify Company of any third party request to review the confidential documents, and Company shall have the burden of defending the County against any action brought by such party.
- c) **Inspection of Records.** County, its auditors and other agents, shall have the right, during regular business hours, to conduct unannounced on-site inspections of the records and accounting systems of Company and to make copies of any documents it deems relevant to this Agreement. Such documents shall be stamped "confidential" and shall not be disclosed to any third party unless required to be disclosed by law.
- d) **Retention of Records.** Unless otherwise herein required, Company shall retain all records and data required to be maintained by this Agreement for at least five (5) years after the expiration or termination of this Agreement. Records and data required to be maintained that are specifically directed to be retained shall be retrieved by Company and made available to County upon County's request. Records and data required to be maintained that are not specifically directed to be retained that are, in the sole opinion of County, material to the determination of the Franchise Fees

or Company's performance under this Agreement, shall be retrieved by Company and made available to County upon request. Records and data required to be maintained that are not specifically directed to be retained and that are not material to the Franchise Fees and/or not required for the determination of the Company's performance do not need to be retrieved by Company. In such a case, however, County may make reasonable assumptions regarding what information is contained in such records and data, and such assumption(s) shall be conclusive in whatever action County takes.

7.1.3 Solid Waste Records. For all Solid Waste collected within the Service Area, records shall be maintained by Company for County relating to:

- a) Customer accounts.
- b) Weight and volume by type (e.g., Solid Waste, Residual Solid Waste, Recyclable Materials, and Greenwaste). Where possible, information is to be separated among accounts for Single-Family Dwelling Units, Multi-Family Dwelling Units, and commercial businesses.
- c) Collection and disposal routes.
- d) Disposal sites and processing facilities, equipment and personnel used.
- e) Facilities and equipment operations, maintenance and repair.
- f) Disposal sites and processing facility weight tickets for Solid Waste, Recyclable Materials, and Greenwaste.
- g) Any and all information required to be maintained for reports to regulatory agencies, such as the Local Enforcement Agency ("LEA") (as defined by the Act).

Company shall maintain records of all Solid Waste, Recyclable Materials, and Greenwaste collected in the Service Area, as well as all Residual Solid Waste, for the period of this Agreement plus five (5) years after its termination. Records shall be in chronological and organized form, and readily and easily interpreted. In the event County requests, Company shall provide all records of Solid Waste, Recyclable Materials, and Greenwaste collected by Contractor within thirty (30) days of County's request.

7.1.4 Recyclable Materials Collection Service Records. In addition to the records required to be maintained for Recyclable Materials pursuant to Section 7.1.3 above, Company shall also maintain for all Recyclable Materials collected within the Service Area, records that relate to:

- a) Recyclable Materials and Greenwaste collection participation especially as related to determining participation and set-out rates and implementing programs to increase existing participation and to expand diversion (names, addresses, contacts made, etc.).

- b) Source Separated Recyclable Materials sales value.
- c) Tonnage of Recyclable Material by type. Where possible, information is to be separated among accounts for Single-Family Dwelling Units, Multi-Family Dwelling Units, and commercial businesses.
- d) Tonnage of Residual Solid Waste.
- e) End-use markets.

7.1.5 Disposal Records. Company shall maintain records of delivery of all Solid Waste, Recyclable Materials, Residual Solid Waste, and Greenwaste collected by Company for the period of this Agreement plus five (5) years after its termination. Records shall be in chronological and organized form and readily and easily interpreted. In the event County requests, Company shall provide all records of delivery of all Solid Waste, Residual Solid Waste, Recyclable Materials, and Greenwaste collected by Company within thirty (30) days of County's request.

7.1.6 Equipment Records. Company shall maintain equipment records, which show the date purchased, useful life of asset, depreciation method and amount, financing method and rate. For vehicles, records shall include gas, oil, maintenance and repair by vehicle number. Cost allocations and methods will be documented and explained. Repair history shall be included, if applicable, for the following types of assets:

- a) Vehicles used exclusively for servicing Service Area.
- b) Spare vehicles shared with other jurisdictions.
- c) Equipment.
- d) Containers purchased for services in the Service Area.
- e) Furniture and fixtures.

7.1.7 Other Programs' Records. Records for other programs shall be tailored to specific needs. In general, they shall include:

- a) Plans, tasks, and milestones.
- b) Accomplishments in terms such as dates, activities conducted, quantities of products used, produced or distributed, and numbers of participants and responses.

7.1.8 CERCLA Defense Records. County views the ability to defend against Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and related litigation as a matter of great importance. For this reason, County regards the ability to prove where Solid Waste collected in the Service Area was taken for disposal, as well as where it was *not* taken, to

be matters of concern. Company shall maintain, retain, and preserve records, which can establish where Solid Waste collected in the Service Area was disposed (and therefore establish where it *was not disposed*). This provision shall survive the expiration of the period during which collection services are to be provided under this Agreement. Company shall maintain these records for a minimum of ten (10) years. Upon County's request, Company shall provide these records to County in an organized and indexed manner rather than destroying or disposing of them.

7.1.9 Customer Service Records. Company shall maintain records for County related to:

- a) Number of calls received.
- b) Length of time to answer and time on hold.
- c) Categories (missed pickups, extra pickups, complaints, damage, compliments, etc.) of calls.
- d) For any complaint, Company shall identify the individual call and the resolution on a complaint log (including initial call date and resolution date) and shall include a description of the complaint and the resolution. For purposes of this Agreement, a "complaint" that needs to be described in the complaint log shall mean either: (a) the customer asks to speak to the customer service representative supervisor; or (b) the customer calls about the same issue on more than one occasion within a 90 day period.
- e) Training records.
- f) New Recycling account log and increased Recycling services.

7.2 Reports.

7.2.1 General.

- a) **Report Formats and Schedule.** Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed, and as specifically directed herein. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:
 - i. Evaluate past and expected progress towards achieving the County's diversion goals and objectives.
 - ii. Determine needs for adjustment to programs.
 - iii. Evaluate customer service and complaints.

Company may propose report formats that are responsive to the objectives and audiences for each report. County shall approve the format of each report. Company agrees to submit all reports in an electronic format compatible with County's software/computers at no additional charge, if requested by County. Company will provide a certification statement, under penalty of perjury, by the responsible Company official, that the report being submitted is correct to the best knowledge of such official after their reasonable inquiry. Monthly reports, if requested, shall be submitted within thirty (30) calendar days after the end of the reporting month, otherwise such data shall be included in the quarterly report. Quarterly reports shall be submitted within forty-five (45) calendar days after the end of the report quarter. Annual reports shall be submitted on or before May 1, following the reporting year. All reports shall be submitted to the address below (or electronically, as agreed with County staff):

Deputy Director of Transportation and Public Works
County of Sonoma
2300 County Center Drive, Suite B 100
Santa Rosa, CA 95403

7.2.2 Monthly Reports.

Reports shall be presented to show the following information for each account in the Service Area:

- a) **Solid Waste Services.** Provide total Solid Waste tonnage by the following customer categories where possible: Single-Family Dwelling Units, Multi-Family Dwelling Units, and commercial/industrial/institutional premises. At a minimum, Solid Waste tonnage shall be broken down by cart collection, bin collection, and debris box collection and shall separately account for Recyclable Materials and Greenwaste.
- b) **Customer Service.**
 - i. Provide number of customer calls by category (e.g., missed pickups, extra pickups, other complaints, scheduled cleanups, damage claims, compliments, requests for dead animal pickups or illegal dumping clean up, etc.)
 - ii. Provide complaint log as set forth in Section 7.1.9 above.
 - iii. Provide number of new Recycling accounts for Single-Family Dwelling Units, Multi-Family Dwelling Units, and commercial/ industrial/institutional customers.
 - iv. Provide number of increases to Recycling services (new service, larger or additional containers for Single-family Dwelling Units, Multi-Family Dwelling Units and commercial accounts).
 - v. Provide number of Bulky Item requests (separated by individual requests and service address) pursuant to the program in Section 4.1.6 above.

7.2.3 Quarterly Reports. Reports shall be presented to show the following information by each month's data in the reported quarter and include a quarterly average. In addition, each quarterly report shall show the past four (4) quarters average for data comparison (the first three quarters of the Agreement shall only include the available quarterly information.) The report shall be in a format approved by the County Manager.

a) Solid Waste Services.

- i. Quarterly summary of monthly report.
- ii. Accounts collected by service type. Include number of accounts and number of total yards for Garbage Bin service.
- iii. Solid Waste tonnage by disposal site.

b) Source Separated Recyclable Materials Services. Provide Source Separated Recyclable Materials tonnage by the following customer categories where possible: Single-Family Dwelling Units (all residential Source Separated Recyclable Materials), Multi-Family Dwelling Units, and commercial premises. At a minimum, Recyclable Materials services tonnage shall be broken down by cart collection, bin collection and debris box collection. All Source Separated Recyclable Materials, quarterly reports shall also specifically indicate for each account:

- i. Tonnage of Recyclable Material diverted, by commodity type.
- ii. Total revenues received by Company and its Affiliates for said tonnage, by commodity type.
- iii. Tonnage of Residual Solid Waste extracted for disposal at disposal site.
- iv. Accounts collected by service type. Include number of accounts and number of total yards for Garbage Bin Service.
- v. Participation percentage by service type (number of accounts actually serviced/number of accounts scheduled for service).
- vi. Tonnage by Recyclable Materials commodities and service type.

c) Greenwaste Service. Provide total Greenwaste tonnage by the following customer categories: Single-Family Dwelling Units, Multi-Family Dwelling Units, and commercial/industrial/institutional premises, including the following information:

- i. Accounts collected by service type. Include number of accounts and number of total yards for Garbage Bin service.

- ii. Participation percentage by service type (number of accounts actually serviced/number of accounts scheduled for service).

d) Customer Service.

- i. Quarterly summary of monthly report.
- ii. Customer service overview sheet, training agenda, and other training supplements provided at the quarterly customer service meeting.

e) Bulky Item/Christmas Tree Services. Provide tonnage by service (Bulky Item, and Christmas Tree collection services). Include the following information:

- i. Disposal tonnage.
- ii. Diversion tonnage.
- iii. Number of stops serviced by a third party re-use vendor.

f) Education Quarterly Activities.

- i. Provide materials and total numbers distributed.
- ii. Provide dates, times, and group names of meetings attended.
- iii. Provide dates, times, and commercial/ industrial/institutional customers and Multi-Family Dwelling Units contacted.

g) Notification Activities. Provide a listing and sample of all notices, newsletters, publications activities that were conducted during the quarter.

h) Pilot and New Programs. For each pilot and/or new program which has been in **existence** less than 36 months, provide activity related and narrative reports on goals and milestones and accomplishments. Describe problems encountered, actions taken, and any recommendations to facilitate progress. Describe vehicles, personnel, and equipment utilized for each program.

i) Summary Assessment. Provide a summary assessment of the overall Solid Waste, Recyclable Materials, and Greenwaste program from Company's perspective relative to financial and physical status of program. The physical status is to relate to how well the program is operating for efficiency, economy, and effectiveness relative to meeting all the goals and objectives of this Agreement including particularly the County's diversion goals. Provide recommendations and plans to improve. Highlight significant accomplishments and problems.

j) **Street Sweeping.** Company to provide reports of street sweeping performed, which will include date, time start/stop, route or description of area worked, equipment number, miles swept, Tonnage of material collected, gallons of water used.

k) **Roadside Pickup Program.**

- i. Company shall provide reports of all dead animals collected which will include date, time, location of collection, animal type, description of size of animal and where it was taken.
- ii. Company shall provide reports of all roadside clean-ups requested, which will include the date and time and location of the response, and the labor, tools and equipment used to pick-up and transport waste to the disposal facility.
- iii. Company shall provide reports on the roving litter pickup program which will include date, start/stop time, description of area worked, distance of area litter was collected, description of material and weight of material collected.

7.3 **Annual Reports.**

7.3.1 Annual Report Requirements. The annual report shall be in the form of the quarterly reports and shall provide the same type of information as required pursuant to Section 7.2.3 of this Agreement, summarized for the preceding four quarters. The annual report shall also include a complete inventory of equipment used to provide all services, and a list of Company's officers and members of its board of directors.

7.3.2 Financial Information. By October 1st of each year, Company shall deliver to the County two (2) copies of the audited franchise fee statements of franchise fees due under this Agreement for the preceding County fiscal year (July 1st through June 30th). With regard to reporting net revenues related to the processing of Recyclable Materials, Company shall provide the independent certified public accountant performing the franchise fee audit with the financial data required to document the proper reporting of gross revenues collected from Recyclables net of the allowed processing fee of \$75 per ton (as adjusted by this Agreement). The annual franchise fee statements shall be prepared in accordance with this Agreement and shall be audited in accordance with Generally Accepted Accounting Principles (GAAP) consistently applied. Annual franchise fee statements shall be audited in accordance with Generally Accepted Auditing Standards (GAAS) by an independent third party Certified Public Accountant (CPA) licensed (in good standing) to practice public accounting in the State of California as determined by the State of California Department of Consumer Affairs Board of Accountancy, and that the CPA opinion on Company's annual franchise fee statements shall be unqualified.

7.3.3 Affiliates and Related Party Entities. Because financial transaction between Company, on the one hand, and a Related Party Entity or an Affiliate, on the other hand, may not be "arm's length," it is important to County to ensure that such transactions are necessary and reasonable. Company agrees that all of its financial transactions with all Related Party Entities or Affiliates shall be approved in advance in writing by County and disclosed annually (coinciding with

Company's annual audited franchise fee statements referred to in Section 7.3.2) to County in a separate disclosure letter to the County. This letter shall include, but not be limited to, the following information: A general description of the nature of each transaction, or type of (for many similar) transactions, as applicable. Such description shall include for each (or similar) transaction the amounts, specific Related Party Entity or Affiliate, basis of amount (how amount was determined), and description of the allocation methodology used to allocate any common costs. Company intends to enter into financial transactions with those Related Party Entities and Affiliates identified below, for the services identified below, and County, having received and reviewed a disclosure letter meeting the requirements of this paragraph, hereby approves these transactions for a period of one (1) year after the date of this Amended and Restated Agreement:

<u>Service</u>	<u>Related Party</u>
Equipment leasing	Recology Leasing Inc.
[Recyclables marketing	Recology Products Inc.]
Parent company services	Recology Inc.
Regional management	Recology Service Center Coast

7.3.4 Operational Information. The following operational information shall be provided to County:

- a) Routes by Service Type
 - i. Number of routes per day
 - ii. Types of vehicles
 - iii. Crew size per route
 - iv. Number of full time equivalent (FTE) routes
 - v. Number of accounts per route
 - vi. Total hours per service type
 - vii. Average cost per route
- b) Personnel
 - i. Organizational chart
 - ii. Job classifications and number of employees (e.g., administrative, customer service representatives, drivers, supervisors, educational staff)
 - iii. Wages by job classification
 - iv. Number of full time equivalents (FTE) positions for each job classification
 - v. Number of hours per job classification
- c) Productivity Statistics
 - i. Number of accounts per service type
 - ii. Number of set-outs per service type
 - iii. Tons per route per day

- d) Maintenance
 - i. Average cost per service type
- e) Operational Changes
 - i. Number of routes
 - ii. Staffing
 - iii. Supervision
 - iv. Collection services
- f) Equipment
 - i. Usage of vehicles for Service Area — Service Area vehicles and spares
 - ii. Container inventory

7.3.5 Historical Data. The following historical data for each service type shall be provided to County:

- a) Customer levels and subscription levels
- b) Solid Waste tonnage
- c) Diversion tonnage
- d) Revenues by type
- e) Material revenues for Source Separated Recyclable Materials by program type

7.3.6 Allocations. (To be completed for rate application allowed by this Agreement (Government Mandates and Transfer Station Closures))

- a) Provide a concise general explanation of the various allocation methodologies used for each rate application line item.
- b) Provide specific examples of each type of allocation used showing how an entry is reported in the general ledger (GL) and agrees to the rate application.
- c) Provide a statement indicating whether there have been any changes in allocation methods used since the last rate application. If any allocation methods have changed clearly identify those changes and the reason for the change.

7.3.7 Projections. (To be completed for rate application allowed by this Agreement (Government Mandates and Transfer Station Closures))

- a) Provide support for the basis for projected revenues by type and expenses by line item; clearly indicate the supporting calculations and assumptions.
- b) Provide support for the basis for projected tonnage; clearly indicate the supporting calculations and assumptions.

7.4 Right to Inspect Records. County shall have the right to inspect or review the income tax returns, payroll tax reports, specific documents or records required pursuant to this Agreement, or any other similar records or reports of the Company, its Affiliates and Related Party Entities that County Manager or County Board of Supervisors shall deem, in their sole discretion, necessary to evaluate annual reports, applications for rate adjustments pursuant to Section 6.4 and 6.5, payment of Franchise Fees, and the Company's performance provided for in this Agreement. County shall attempt to maintain the confidentiality of the records and information provided in this paragraph, consistent with the necessity of supporting any recommendations to the County Board of Supervisors. Should County receive a Public Records Act request for this information, it shall notify Company and Company may take whatever legal action may be available to it to prevent these documents and this information from becoming public.

7.5 Inspection by County. The designated representatives of County shall have the right to observe and review Company operations and enter its place(s) of business for the purposes of such observation and review at all reasonable hours with reasonable notice.

7.6 Related Party Entities. At all times throughout the term of this Agreement, Company's accounting records shall be maintained on a basis showing the results of Company's operations under this Agreement separately from operations in other locations. The accounting records of costs and revenues associated with providing service to County shall not be combined, consolidated or in any other way incorporated with those of other operations conducted by Company in other locations, or with those of Related Party Entities.

ARTICLE 8

INDEMNIFICATION, INSURANCE, GUARANTY AND BOND

8.1 Indemnification. Company shall indemnify and hold harmless County, ("County"), its officers, directors, employees, and agents from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding, or suit of any and every kind and description (including, but not limited to, injury to and death of any person and damage to property, or for contribution or indemnity claimed by third parties) arising or resulting from or in any way connected with performance of this Agreement, including allegations of: (1) negligence or willful misconduct of Company, its officers, employees, agents and/or subcontractors in performing services under this Agreement (whether or not third parties may also be contributorily negligent); (2) failure of Company, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement, applicable laws (including, without limitation, the environmental laws) and regulations, and/or applicable permits and licenses; (3) acts of Company, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the

Environmental Laws). The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death, cost or damage is also caused in part by County's negligence, except that which was caused by the sole negligence or willful misconduct of County, its officers, directors, employees, of agents. The foregoing indemnity shall not apply to any loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death, cost or damage to the extent that such claim arises out of an event physically occurring after the Commencement Date at the County Central Landfill (during County's ownership of the Central Landfill) and was caused by the active negligence or willful misconduct of County employees. Company further agrees to and shall, upon demand of County, at Company's sole cost and expense, defend (with attorneys acceptable to County) County, its officers, directors, employees, and agents against any claims, actions, suits, or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any events described in this paragraph. Company's duty to indemnify and defend shall survive the expiration or early termination of this Agreement as to matters occurring during the term of the Agreement, including any extension thereof.

8.2 Hazardous Substances Indemnification. Company shall indemnify, defend (with attorneys acceptable to County), protect, and hold harmless County, its officers, Directors, employees, and agents (collectively) indemnitees from and against all claims, damages (including but not limited to special, consequential, natural resources, and punitive damages), injuries, costs, (including without limit any and all response, remediation, and removal costs), losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and expenses (including without limit attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity), (collectively, "damages") of any kind whatsoever paid, incurred, or suffered by, or asserted against indemnitees, arising from or attributable to the acts or omissions of Company, its officers, directors, employees, companies, or agents, whether or not negligent or otherwise culpable, in connection with or related to the performance of this Agreement, including, without limit, damages arising from or attributable to any operations, repair, cleanup, or detoxification, or preparation and implementation of any removal, remedial, response, closure, post-closure, or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Substance or other waste collected under this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Sections 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, CERCLA, 42 USC Sections 9607(e) and California Health and Safety Code Sections 25364, to defend, protect, hold harmless, and indemnify County from liability. This provision is in addition to all other provisions in this Agreement and is intended to survive the end of the term of this Agreement. Nothing in this paragraph shall prevent County from seeking indemnification or contribution from persons or Entities other than Company for any liabilities incurred by County or Company. As determined in the sole discretion of County, Company shall be required to secure, from its parent company, the indemnification required by this section.

8.3 Indemnification Under the Act. Under the Act, County has the direct responsibility to meet percentage diversion goals and other requirements of the Act. However, many of the programs developed to comply with the requirements of the Act will be implemented by Company as the provider of Solid Waste collection and Recycling services in the community under this

Agreement with County. Company agrees to indemnify County for any sums of money County is required to pay in accordance with Public Resources Code Section 41821.2, in the event that County's failure to implement approved elements is due to the failure of Company to meet its obligations under this Agreement. Company shall, in addition, indemnify County for any fines and penalties assessed County for delays by Company in providing information that prevents County, from submitting reports required by the Act in a timely manner.

- 8.4 Proposition 218 Indemnification.** Company shall indemnify, defend and hold harmless, County, its officers, directors, employees, agents and volunteers (collectively, "Indemnity"), from and against all claims, damages, injuries, costs, including demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest fines, charges, penalties and expenses (including reasonable attorneys' and expert witness fees, expenditures for investigation and administration), and costs of any kind whatsoever paid, imposed upon, endured, or suffered by or assessed against the Indemnity resulting in any form from the County's setting of rates for service under this Agreement or in connection with the application of California Constitution, Article XIII C and Article XIII D to the imposition, payment or collection of rates and fees.
- 8.5 Company's Obligation to Respond to County's Tender of Claim.** Company's obligation to defend, hold harmless, and indemnify shall not be excused because of Company's inability to evaluate liability or because Company evaluates liability and determines that Company is not liable as the claimant. Company must respond within thirty (30) days to the tender of a claim for defense and indemnity by County, unless the time has been extended by County. If Company fails to accept or reject a tender of defense and indemnity within thirty (30) days, in addition to any other remedy authorized by law, so much of the money due Company under and by virtue of this Agreement as shall reasonably be considered necessary by County may be retained by County until such disposition has been made on the claim or suit for damages, or until Company accepts or rejects the tender of defense, whichever occurs first.

8.6 Insurance.

8.6.1 General. Company shall take out and maintain during the life of the contract such public liability and property damage insurance as shall protect Company and any subcontractor performing work covered by this Agreement from claims for property damages, which may arise because of the nature of the work or from operation under the contract, whether such operations be by Company or by any subcontractor or person directly or indirectly employed by either, even though such damages may not be caused by the negligence of the Company or any subcontractor, or person employed by either. The public liability and property damage insurance shall directly protect County, its officers, agents, employees and volunteers, as well as the Company and any subcontractors, and all insurance policies issues hereunder shall so state. All Coverages -Each insurance policy required by this clause shall be endorsed to state that 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 County.

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

- a) Insurance Services Office form number GL 0002 covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office commercial General Liability coverage ("occurrence" form CG 0001).
- b) Insurance Services Office form number CA 0001 covering Automobile Liability, code 1 "any auto" and endorsement CA 0025.
- c) Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

8.6.3 Minimum Limits of Insurance. Company shall maintain limits no less than:

- a) Comprehensive General Liability: Five Million Dollars (\$5,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
- b) Automobile Liability: Five Million Dollars (\$5,000,000) combined single limit per accident for bodily injury and property damage.
- c) Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

8.6.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its member agencies, its officials and employees; or Company shall provide a financial guarantee satisfactory to County guaranteeing payment of losses and related investigations, claim administration and defense expenses.

8.6.5 Acceptability of Insurers. The insurance policies required by this section shall be issued by an insurance company or companies approved by County, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, insurance policies required by this section shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of "A" or better.

8.6.6 Verification of Coverage. Company shall furnish County with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Issuance of documentation indicates the Company's insurance complies with these provisions. The certificates and endorsements are to be on forms provided by or acceptable to County and are to be received and approved by County before work

commences under this Agreement. County reserves the right to require complete, certified copies of all required insurance policies, at any time.

8.6.7 Subcontractor. Company 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.

8.6.8 Required Endorsements.

- a) The Workers' Compensation policy shall contain an endorsement in substantially the following form:

“Thirty (30) days prior written notice shall be given to County in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

Director of Transportation and Public Works
County of Sonoma
2300 County Center Drive, Suite B 100
Santa Rosa, CA 95403

- b) The Comprehensive General Liability and Automobile Liability policies shall contain endorsements in substantially the following form:

- i. “Thirty (30) days prior written notice shall be given to County in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

Director of Transportation and Public Works
2300 County Center Drive, Suite B100
Santa Rosa, CA 95403

- ii. “County, its officers, employees, volunteers and agents are additional insureds on this policy.”
- iii. “This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by County, including any self-insured retention or program of self insurance, and any other such insurance shall be considered excess insurance only.”
- iv. “Inclusion of County as an insured shall not affect County's rights as respects any claim, demand, suit or judgment brought or recovered against Company. This policy shall protect Company and County in the same manner as though a separate policy had been issued to each, but this shall not operate to increase Company's liability as set forth in the policy beyond the amount shown or to

which Company would have been liable if only one party had been named as an insured.”

8.6.9 Delivery of Proof of Coverage. Simultaneously with the execution of this Agreement, Company shall furnish County certificates of each policy of insurance required hereunder, in form and substance satisfactory to County. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies and shall have all required endorsements. If County requests, copies of each policy, together with all endorsements, shall also be promptly delivered to County. Renewal certificates will be furnished periodically to County to demonstrate maintenance of the required coverages throughout the term of the Agreement.

8.6.10 Other Insurance Requirements.

- a) In the event any services are delegated to a subcontractor, Company shall require such subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the subcontractor's employees engaged in the work in accordance with Section 8.4. The liability insurance required by Section 8.6 shall cover all subcontractors or the subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Section 8.6.
- b) Company shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve Company from any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third person against Company or any subcontractor on account of any occurrence related to this Agreement, Company shall promptly report the facts in writing to the insurance carrier and to County. If Company fails to procure and maintain any insurance required by this Agreement, County may take out and maintain, at Company's expense, such insurance as it may deem proper and deduct the cost thereof from any monies due Company.
- c) The commercial, General, and Automobile Liability insurance required by Section 8.6 shall be written on an "occurrence," rather than a "claims made" basis, if such coverage is obtainable. If it is not obtainable, Company must arrange for a 36-month "tail coverage" to protect County from claims filed after the expiration or termination of this Agreement relating to incidents which occurred prior to such expiration or termination.

8.7 Guaranty. Prior to the Commencement Date, Company shall provide County with a Guaranty in the form attached hereto as Exhibit H, from Recology Sonoma Marin.

8.8 Faithful Performance Bond. Simultaneously with the execution of this Agreement, Company shall file with County a bond, payable to County, securing Company's faithful performance of its obligations under this Agreement. The principal sum of the bond shall be One Hundred Thousand Dollars (\$100,000). 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 County. The bond shall be in the form attached as Exhibit I, or as otherwise approved by the County Manager.

ARTICLE 9

COUNTY'S RIGHT TO PERFORM SERVICE

9.1 General. In the event that Company, for any reason whatsoever, fails, refuses, or is unable to collect, transport, or dispose of any or all Solid Waste that it is required by this Agreement to collect and transport, at the time and in the manner provided in this Agreement, for a period of more than two (2) business days, and if, as a result thereof, Solid Waste should accumulate in the Service Area to such an extent, in such a manner, or for such a time that the County Manager should find that such accumulation endangers or menaces the public health, safety, or welfare, then County shall have the right, but not the obligation, upon twenty-four (24) hour prior written notice to Company during the period of such event as determined by the County Manager: (1) to perform, or cause to be performed, such services itself with its own or other personnel or to contract for performance of said services with a third party selected by County, without liability to Company; and/or (2) to take possession of any or all of Company's land, equipment, and other property to collect and transport any Solid Waste generated within the Service Area which Company would otherwise be obligated to collect and transport pursuant to this Agreement. Notice of Company's failure, refusal, or neglect to collect and transport Solid Waste may be given orally or by telephone to a responsible Company official, at Company's principal office, and shall be effective immediately. Written confirmation of such oral notification shall be sent to Company within twenty-four (24) hours of the oral notification. Company further agrees that in such event: (a) it will take direction from County to effect the transfer of possession of property to County for County's use; and (b) it will, if County so requests, 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 said property in operational condition. County may immediately engage all or any personnel necessary or useful for the collection and transportation of Solid Waste, including, if County so desires, employees previously or then employed by Company. Company further agrees, if County so requests, to furnish County the services of any or all management or office personnel employed by Company whose services are necessary or useful for Solid Waste collection and transportation operations and for the billing and collection of fees for these services. County agrees that it assumes complete responsibility for the proper and normal use of such equipment and facilities while in its possession. If the interruption or discontinuance in service is caused by any reasons other than those listed in Section 10.1, County shall pay to Company the reasonable rental value of the equipment and facilities, possession of which is taken by County, for the period of County's possession. Additionally, County shall pay to Company the reasonable value of any goods or services provided by Company (e.g. gas, oil, use of mechanic, etc.). Under circumstances not set forth in Section 10.1, County shall also provide some reasonable return to Company, provided there are revenues available through collection of the established rates to reimburse County for its costs and pay Company for rental and services.

9.2 Temporary Possession for Service Interruption Caused by Other Events. If the interruption or discontinuance of services is caused by any event listed in Section 10.1 (including

interruptions and discontinuance due to strikes, lockout, and other labor disturbances), County may take possession of and use all of Company's property described above without paying Company or any other person any rental or any other charges or compensation whatsoever for said possession and use. However, County may, in its discretion, pay to Company the reasonable rental value of equipment and facilities, possession of which is taken by County, along with the reasonable value of goods and services provided by Company during temporary possession; provided however, no payment to Company may occur unless the revenues provided through the collection of rates are sufficient to make such payments once all reasonable costs incurred by County due to the temporary takeover are paid.

- 9.3 Billing and Compensation to County During County's Possession.** During such time that County is providing Solid Waste services, as above provided, Company shall bill and collect payment from all users of the above-mentioned services. Company further agrees that, in such event, it shall reimburse County for any and all costs and expenses incurred by County in taking over possession of the above-mentioned property for Solid Waste service in such manner and to an extent as would otherwise be required of Company under the terms of this Agreement. Such reimbursement shall be made from time to time after submission by County to Company of each statement listing such costs and expenses, but in no event later than five (5) working days from and after each such submission.
- 9.4 County's Right to Relinquish Possession.** It is further mutually agreed that County may at any time at its discretion relinquish possession of any or all of the above-mentioned property to Company and thereupon demand that Company resume the Solid Waste services as provided in this Agreement, whereupon Company shall be bound to resume the same.
- 9.5 County's Possession Not A Taking.** County's exercise of its rights under this Article 9: (1) does not constitute a taking of private property for which compensation must be paid, (2) will not create any liability on the part of County to Company; and (3) does not exempt Company from any of the indemnity provisions of this Agreement, which are meant to extend to circumstances arising under this Article, provided that Company is not required to indemnify County against claims and damages arising from the active negligence of County officers, employees, and agents in the operation of such equipment and facilities during the period of County's possession.
- 9.6 Duration of County's Possession.** County's right pursuant to this Article 9 to retain temporary possession of Company's facilities and equipment, and to render collection services, shall terminate when County determines that such services can be resumed by Company, or when County no longer reasonably requires such facilities or equipment. In any case, County has no obligation to maintain possession of Company's property and/or continue its use for any period of time and may at any time, in its sole discretion, relinquish possession to Company.
- 9.7 Possession in Event of Termination.** In the event of termination as provided in Article 10, County shall have the right to take possession of any and all of Company's land, equipment, and other property used or useful in the collection and/or transportation of Solid Waste and to use such property to collect, recycle, and transport any Solid Waste generated within County. County shall have the right to retain the possession of such property until other suitable arrangements can be made for the provision of Solid Waste collection services, which may include the grant of

a franchise to another waste hauling company. In the event of termination, Company shall only be entitled to the payments, if at all, as set forth in Section 9.2 above, which payments shall be offset against any damages due County for Company's default. Company shall furnish County with immediate access to all of its business records related to billing of accounts for service and other records necessary for maintaining ongoing service during the period of possession.

ARTICLE 10

DEFAULT, REMEDIES, AND LIQUIDATED DAMAGES

10.1 Events of Default. All provisions to be performed by Company under this Agreement are considered material. Each of the following shall constitute a breach under this Agreement, and if such breach is not cured within thirty (30) days from written notice by County to Company of such breach, then such breach will be deemed an Event of Default:

10.1.1 Fraud or Deceit. If Company practices, or attempts to practice, any fraud or deceit upon County.

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

10.1.3 Failure to Maintain Coverage/Indemnification. If Company fails to provide or maintain in full force and effect the Workers' Compensation and liability coverage, or fails to provide indemnification as required by this Agreement.

10.1.4 Violations of Regulation. If Company violates any orders or filings of any regulatory body having jurisdiction over Company relative to this Agreement, which violation adversely affects Company's ability to provide service, provided that Company may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of the franchise shall be deemed to have occurred.

10.1.5 Failure to Perform. If Company ceases to provide collection services as required under this Agreement for a period of forty-eight (48) hours (on working days) or more, for any reason within the control of Company.

10.1.6 Failure to Pay. If Company fails to make any payments required under this Agreement and/or refuses to provide County with required information, reports, and/or records in a timely manner as provided for in the Agreement.

10.1.7 Failure to Deliver to Designated Disposal Site or Processing Facility. Company delivers Solid Waste to a disposal site or Greenwaste to a processing facility other than the specific facility designated by County, unless Company receives written notice from County of a permanent change in a designated facility, or County has expressly directed Company, in writing, to temporarily transport Solid Waste or Greenwaste to an alternate site due to an inability of County's designated disposal site or processing facility to accept materials.

10.1.8 Acts or Omissions. Any other act or omission by Company that violates the terms, conditions, or requirements of this Agreement, the Act, as it may be amended from time to time, or any order, directive, rule, or regulation issued thereunder and that is not corrected or remedied within the time set in the written notice of the violation, or, if Company cannot reasonably correct or remedy the breach within the time set forth in such notice, or if Company should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

10.1.9 Attachment. There is a seizure of attachment of, or levy on, the operating equipment of Company, including without limits its equipment, maintenance, or office facilities, or any part thereof, to the extent the partial attachment or levy materially affects the operations of Company with regard to its obligations under this Agreement.

10.1.10 Suspension or Termination of Service. There is any unexcused termination of service or suspension of the transaction of business by Company.

10.1.11 Failure to Provide Assurance of Performance. If Company fails to provide reasonable assurances of performance as required under Section 10.6.

10.1.12 Failure of Company's Facilities to Comply with Laws. Any permit conditions or regulations pertaining to Company's Facilities within the County is violated.

10.2 Right to Terminate Upon an Event of Default.

10.2.1 Immediate Termination. Upon an Event of Default by Company, County shall have the right to immediately terminate this Agreement upon ten (10) days' notice, without the need for any hearing, suit, or legal action.

10.2.2 Shortening of Franchise Agreement Term. Upon an Event of Default by Company, County shall have the right to shorten the term of the Agreement so as to have the term expire two (2) years from the date of the County's notice of termination for an Event of Default. During the two year period, County shall have the right to solicit proposals from other companies for solid waste services.

10.2.3 Non-exclusive Remedy. County's right of termination is in addition to any other rights of County upon an Event of Default. County's right to terminate this Agreement under this Section 10.2 and to take possession of Company's properties under Section 9.1 are not exclusive, and County's termination of this Agreement shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies that County may have including the County's right to recovery on the faithful performance bond (described in Section 8.8 of this Agreement) or the guaranty (described in Section 8.7 of this Agreement) in the Event of Default.

10.3 Injunctive Relief and Specific Performance. By virtue of the nature of this Agreement, the urgency of timely continuous and high-quality service, the lead time required to effect alternative service, and the rights granted by County to Company, Company acknowledges that the remedy

of damages for a breach hereof by Company is inadequate and County shall be entitled to injunctive relief.

10.4 Liquidated Damages.

10.4.1 General. County finds, and Company agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages that shall be incurred by County as a result of a breach by Company of its obligations under this Agreement. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity that are incapable of measurement in precise monetary terms; (iii) that services might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies that make the public whole for past breaches.

10.4.2 Service Performance Standards; Liquidated Damages for Failure to Meet Standards. The parties acknowledge that consistent Solid Waste collection service is of utmost importance to County and that County has considered and relied on Company's representations as to its quality of service commitment in awarding the Agreement to it. The parties further 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 Company fails to achieve the performance standards, or fails to submit required documents in a timely manner, County and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages that County will suffer. Therefore, without prejudice to County's right to treat such non-performance as a breach under this Article 10, the parties agree that the liquidated damage amounts set forth in Exhibit J represent a reasonable estimate of the amount of such damages considering all of the circumstances existing as of the Execution Date, including the relationship of the sum to the range of harm to County that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or inconvenient. 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.

Company
Initial here: _____

County
Initial here: _____

10.4.3 Assessment of Liquidated Damages. Accordingly, County may, in its discretion, but after complying with notice and hearing procedures set forth below, assess liquidated damages as set forth in Exhibit J and Company agrees to pay such amounts as liquidated damages and not as

a penalty. County may determine the occurrence of events giving rise to liquidated damages through the observance of its own employees or representatives or through investigation of customer complaints. The Parties agree that Company shall not be assessed liquidated damages for the first three (3) occurrences in any calendar year. However, the County Manager shall provide written notice to Company of any such event that could result in liquidated damages and shall keep a log of all such events. County may assess liquidated damages pursuant to this Section 10.4 on a monthly basis. At the end of each month during the term of this Agreement, the County Manager shall issue a written notice to Company ("Notice of Assessment") of any liquidated damages assessed and the basis for each assessment. Company may review (and make copies at its own expense) all information in the possession of County relating to incident(s)/nonperformance. Company may, within ten (10) days after receiving the notice, request a meeting with County. In the event Company does not submit a written request for a meeting within ten (10) calendar days of the date of the Notice of Assessment, the County Manager's determination shall be final. If a meeting is requested, it shall be held by the County Manager or his/her designee. Company may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. The County Manager or designee will then provide Company with a written explanation of his or her determination assessing liquidated damages. Company may appeal a determination to assess liquidated damages to the County Board of Supervisors within 10 days of receipt of the determination. County's assessment or collection of liquidated damages hereunder shall not prevent County from exercising any other right or remedy, including the right to terminate this Agreement for Company's failure to perform the work and services in the manner set forth in this Agreement.

10.4.4 Timing of Payment. Company shall pay any liquidated damages assessed by County within ten (10) days after they are assessed. If they are not paid within the ten (10) day period, County may proceed against the performance bond required by the Agreement or order the termination of the franchise granted by this Agreement, or both.

10.5 Excuse from Performance. Company shall be excused from performing its obligations hereunder if there is a Force Majeure Event. Should a Force Majeure Event occur, Company shall, within two (2) business days after the occurrence of a Force Majeure Event give County notice of the facts constituting such cause and asserting its claim to excuse under this Section. The interruption or discontinuance of Company's services caused by one or more Force Majeure Events shall not constitute a default by Company under Section 10.1 of this Agreement.

10.6 Notice, Hearing and Appeal of County Breach. Should Company contend that County is in breach of this Agreement, it shall file a written request with the County Manager for an administrative hearing on the allegation. The County Manager shall notify Company of the time and date said hearing shall be held within thirty (30) days of receipt of Company's request. Company shall present its position and all relevant facts after County staff has made its presentation. Company shall be notified of the County Manager ruling in writing within fourteen (14) days of the administrative hearing. If Company is not in agreement with the ruling issued by the County Manager at the administrative hearing, it shall have the right to appeal this ruling to Board of Supervisors. This appeal shall be made in writing to the County Manager no later than fourteen (14) days after receipt of the administrative hearing ruling. The County Manager shall notify Company of the time and date of the hearing before the Board of Supervisors, which

hearing will be within forty-five (45) days of receipt of the request for appeal. Company shall present its position and all relevant facts after staff has made its presentation. Company shall be notified in writing within thirty (30) days of the Board of Supervisors' ruling.

- 10.7 Assurance of Performance.** County may, at its option and in addition to all other remedies, demand from Company reasonable assurances of future timely and proper performance of this Agreement, in such form and substance as County may deem required. If Company fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by County, such failure or refusal shall itself constitute an event of default.

ARTICLE 11

ASSIGNMENT AND SUBCONTRACTING

11.1 Assignment.

11.1.1 No Assignment Without Consent. Except as may be provided for in Article 9 (County's Right to Perform Service), neither party shall assign its rights nor delegate, subcontract, or otherwise transfer its obligations under this Agreement to any other person without the prior written consent of the other party, except as provided for a joint powers authority described below. Any such assignment made without the consent of the other party shall be void and the attempted assignment shall constitute a material breach of this Agreement. Nothing in this Agreement is intended to prevent County from assigning its rights and obligations under this Agreement to a joint powers authority organized for the purpose of dealing with Solid Waste management matters on a countywide or regional basis. Such an assignment to a joint powers authority, where County is a member agency, may occur without prior written consent of Company.

11.1.2 Definition of Assignment. For purposes of this section, when used in reference to Company, "assignment" shall include, but not be limited to (i) a sale, exchange, or other transfer of substantially all of Company's assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange, or other transfer of the outstanding common stock of Company to a third party, provided said sale, exchange, or transfer may result in a change of control of Company; (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation, or other transaction to that Company, any of its shareholders, subsidiary, or parent company is a party which results in a change of ownership or control of Company; (iv) any assignment by operation of law, including insolvency or bankruptcy, assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Company's property, or transfer occurring in the event of a probate proceeding; (v) transfer of responsible management control of Company from the current Chairman of the Board (James Ratto); and (vi) any combination of the foregoing (whether or not in related or contemporaneous transactions) that has the effect of any such transfer or change of ownership, or change in control of Company. Nothing herein shall be deemed to prevent the current Chairman of the Board of the Company (James Ratto) from buying out other shareholders of Company.

11.1.3 Request for Assignment. Company acknowledges that this Agreement involves rendering a vital service to County's residents and businesses, and that County has selected Company to perform the services specified herein based on (1) Company's experience, skill, and reputation (and that of James Ratto as the responsible managing officer of the Company) for conducting its Solid Waste management operations in a safe, effective, and responsible fashion, at all times in keeping with applicable waste management laws, regulations and good waste management practices, and (2) Company's financial resources to maintain the required equipment and to support its indemnity obligations to County under this Agreement. County has relied on each of these factors, among others, in choosing Company to perform the services to be rendered by Company under this Agreement. If Company requests County's consideration of, and consent to, an assignment, County may deny or approve such request in its complete discretion. Approval by County, however, of such requested assignment, shall not be unreasonably withheld. Under no circumstances shall County be obliged to consider any proposed assignment by Company if Company is in default at any time during the period of consideration. Acquisition costs incurred by assignee in purchasing Company, or otherwise securing assignment of the Agreement, shall be excluded from allowable costs in the rate base. It shall be the responsibility of Company, in requesting an assignment, to comply with the following requirements:

- a) Company shall undertake to pay County its reasonable expenses for attorney's fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment;
- b) Company shall furnish County with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;
- c) Company shall furnish County with satisfactory proof: (i) that the proposed assignee has at least ten (10) years of Solid Waste management experience on a scale equal or to exceeding the scale of operations conducted by Company under this agreement; (ii) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, state, or local agency having jurisdiction over its waste management operations due to any significant failure to comply with state, federal, or local waste management laws and that the assignee has provided County with a complete list of such citations and censures; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the proposed assignee conducts its Solid Waste management practices in accordance with sound waste management practices in full compliance with all Laws regulating the collection and disposal of Solid Waste, household hazardous waste, and Hazardous Substances; (v) that the proposed assignee has a net worth, liquidity, and debt structure at least as favorable as Company's; (vi) that the proposed managing official of assignee is qualified to supervise assignee's operations in performing the Agreement; (vii) of any other information required by County to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe, and effective manner.

- 11.2 **Subcontracting.** Company shall not engage any subcontractors for collection or disposal of Solid Waste without the prior written consent of County. In the event of an emergency or other urgent circumstances (e.g. labor unrest), County's consent to subcontracting shall not be unreasonably withheld.
- 11.3 **Binding on Assigns.** The provisions of this Agreement shall inure to the benefit of and be binding on all permitted assigns of the parties.

ARTICLE 12

OTHER AGREEMENTS OF THE PARTIES

- 12.1 **Relationship of Parties.** The parties intend that Company shall perform the services required by this Agreement as an independent contractor engaged by County and not as an officer or employee of County nor as a partner of or joint venture with County. No employee or agent of Company shall be or shall be deemed to be an employee or agent of County. Except as expressly provided herein, Company shall have the exclusive control over the manner and means of conducting the Solid Waste collection and disposal services performed under this Agreement, and all persons performing such services. Company shall be solely responsible for the acts and omissions of its officers, employees, subcontractors, and agents. Neither Company nor its officers, employees, subcontractors, and agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits that accrue to County employees.
- 12.2 **Compliance with Law.** In providing the services required under this Agreement, Company shall at all times, at its sole cost and expense, comply with all Laws. Without limiting the generality of the foregoing, Contractor expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees ("Living Wage Ordinance"). Noncompliance with the Living Wage Ordinance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.
- 12.3 **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the Laws of the State of California.
- 12.4 **Jurisdiction.** Any lawsuits between the parties arising out of this Agreement shall be brought and concluded in the Superior Court of Sonoma County, or in the U.S. District Court, Northern District of California. With respect to venue, the parties agree that this Agreement is made in and will be performed in Sonoma County.
- 12.5 **Mediation.** The parties agree to consider mediation prior to filing suit, provided, however, that there is no concern as to a statute of limitations issue. If either party files suit with respect to performance of this Agreement, the parties agree to seek mediation services during the first ninety (90) days of the lawsuit.

- 12.6 Attorneys' Fees.** If either Party undertakes litigation against the other Party arising out of or in connection with this Agreement, the prevailing Party shall be entitled to recover from the other Party reasonable attorney fees and court costs incurred. The prevailing Party shall be determined by a judge pursuant to Civil Code Section 1717(b)(1) or any successor statute.
- 12.7 Transition to Next Company.** If transition of services to another company occurs through expiration of term, default, termination, or otherwise, Company will cooperate with County and subsequent company(s) to assist in an orderly transition, which will include Company providing route lists and billing information. Company will not be obliged to sell collection vehicles, bins, and containers to the next company or County. Depending on Company's circumstances at the point of transition, Company at its option may enter into negotiations with County or the next company to sell (in part or all) collection vehicles, bins, and containers.
- 12.8 Parties in Interest.** Except as specifically set forth herein, 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 and permitted assigns.
- 12.9 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 of 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 pre-existing or concurrent breach or violation by the other party of any provision of this Agreement.
- 12.10 Company's Investigation.** Company has made an independent investigation (satisfactory to it) of the conditions and circumstances surrounding the Agreement and the work to be performed by it.
- 12.11 Notice.** All notices, demands, requests, proposals, approvals, consents, and other communications that this Agreement requires, authorizes, or contemplates shall be in writing and shall be personally delivered to a representative of the parties at the address below; be sent by facsimile to the number below; or be deposited in the United States mail, first class postage prepaid, addressed as follows:

If to County: Director of Transportation and Public Works
 Sonoma County
 2300 County Center Drive, Suite B 100
 Santa Rosa, CA 95403
 Fax: 707 565-2620

If to Company: Recology Sonoma Marain
 Attn: Legal Department
 50 California Street, 24th Floor
 San Francisco, CA 94111

The address to which communications may be delivered may be changed from time to time by a notice given in accordance with this Section. Notice shall be deemed given on the day it is personally delivered or sent by facsimile. If mailed, notice shall be deemed given three (3) days from the date it is deposited in the mail. Sender shall retain proof of service by facsimile and proof of service by courier, if courier service is utilized.

12.12 Representatives of the Parties. References in this Agreement to the "County" shall mean the Board of Supervisors and all actions to be taken by County shall be taken by the Board of Supervisors except as provided below. The Board of Supervisors may delegate, in writing, authority to County Manager and/or to other County officials or employees and may permit such officials or employees, in turn, to delegate in writing some or all of such authority to subordinate officers. Company may rely upon actions taken by such delegates if they are within the scope of the written authority properly delegated to them. Company shall, by the effective date, designate in writing a responsible officer who shall serve as the representative of Company in all matters related to the Agreement and shall inform County in writing of such designation and of any limitations upon his or her authority to bind Company. County may rely upon action taken by such designated representatives as actions of Company unless they are outside the scope of the authority delegated to him/her by Company as communicated to County.

12.13 County Free to Negotiate with Third Parties. County may investigate all options for the collection and disposal of Solid Waste after the expiration of the term. Without limiting the generality of the foregoing, County may solicit proposals from Company and from third parties for the provision of collection services, disposal services, Recycling services, Greenwaste collection and composting, and any combination thereof, and may negotiate and execute agreements for such services that will take effect upon the expiration or earlier termination under Section 10.1 of this Agreement. Nothing in this Agreement is intended to give rise to demobilization costs or damages, or other costs or damages associated with winding up the business operations of Company upon expiration or termination.

12.14 [NOT USED]

12.15 [NOT USED]

12.16 Fair Market Value. Company acknowledges the obligation to receive fair market value for all Recyclable Materials sold to any Related Party Entity.

12.17 Privacy. Company shall strictly observe and protect the rights of privacy of customers. Information identifying individual customers or the composition or contents of a customer's wastestream shall not be revealed to any person, governmental unit, private agency, or Company, unless upon the authority of a court of law, by statute, or upon valid authorization of the customer. This provision shall not be construed to preclude Company from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses that may be required by the Act. County agrees to protect any information supplied by Company, which Company designates as "Proprietary" and "Confidential," from disclosure to the extent allowed by law. If any person files suit or seeks or other legal recourse challenging County's refusal to disclose proprietary and confidential information, Company agrees to pay all

costs incurred with respect to such suit or other legal challenge. Notwithstanding the foregoing, Company shall provide any and all information requested by County during County's audit of Company's records.

12.18 Non-Severability and Covenant Not to Sue. It is acknowledged by Company that the County could opt to collect Solid Waste generated in the unincorporated area of the County through the use of the County's own employees and vehicles, and thereby the County could itself deliver Solid Waste collected by the County in the unincorporated area of the County to the County Facilities. Company further acknowledges that the County is only granting this Agreement to Company contingent on the expected enforceability of, and fulfillment by, Company of its agreement to deliver all Solid Waste collected by Company in the Service Area to the County Facilities. The Company's obligations under Article 2 of this Agreement are an indivisible part of the Parties' main object in entering into this Agreement, and but for the Company's covenant to deliver all Solid Waste to the County Facilities during the term of this Agreement, the County would not enter into this Agreement and would not grant the Company any rights to collected Solid Waste in any of the unincorporated areas of the County. Should Company or any third party successfully challenge the legality or enforceability of all or any portion of Article 2 of this Agreement, then this Agreement shall be considered null and void from and after the date of any final judgment or arbitral or administrative decision declaring such obligation of Company to be void, illegal or unenforceable, whether in whole or in part; alternatively, and in addition to the foregoing provision, the County may then terminate this Agreement in accordance with Section 10.2. Company has entered into this Agreement, freely, voluntarily and without relying on any statements, representations or warranties of the County except for those representations expressly made in this Agreement. Company has entered in this Agreement based on its own independent investigation of the circumstances surrounding this Agreement and has received and relied solely on the advice of Company's own attorneys. Company represents, warrants and covenants to County that Company does not and will not contest the legality or enforceability of any portion of this Agreement, including Company's or Affiliate's obligation under Article 2 of this Agreement, and Company acknowledges the County is entering into this Agreement in reliance on the Company's representation, warranty and covenant in this regard. Company agrees not to claim in any legal or administrative proceeding or in any arbitration or other proceeding that any of Company's obligations in this Agreement, including Company's obligation under Article 2 of this Agreement, are illegal or unenforceable for any reason. Should Company breach this covenant, the County may terminate this Agreement in accordance with Section 10.2 regardless of the outcome of any such proceeding or arbitration.

ARTICLE 13

MISCELLANEOUS AGREEMENTS

- 13.1 Entire Agreement.** This Agreement, including the exhibits, represents the full and entire agreement between the parties with respect to the matters covered herein.
- 13.2 Section Headings.** The article headings and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

- 13.3 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.
- 13.4 Interpretation.** 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.
- 13.5 Agreement.** This Agreement may not be modified or amended in any respect except by a writing signed by the parties.
- 13.6 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, which shall be enforced as if such invalid or unenforceable provision had not been contained herein.
- 13.7 Agreement Supersedes Prior Agreements.** This Agreement shall supersede any and all agreements heretofore entered into by the parties with respect to the subject matter hereof.
- 13.8 Exhibits.** Each of Exhibits identified below is attached hereto and incorporated herein and made a part hereof by this reference.

Amended Exhibit A: Company Affiliates
Amended Exhibit B: Multiple Jurisdiction Routes
Amended Exhibit C: Related Party Entities
Amended Exhibit D: Service Area and Rate Zone Map
Amended Exhibit E: Service Rates
Amended Exhibit F: Street Sweeping Routes
Amended Exhibit G: Rate Adjustment Formula
Exhibit H: Form of Guaranty
Exhibit I: Form of Bond
Exhibit J: Liquidated Damage Amounts

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

RECOLOGY SONOMA MARIN
a California corporation

By: _____

Name: Michael J. Sangiacomo

Title: President & CEO

By: _____

Name: Cary Chen

Title: Corporate Secretary

COUNTY OF SONOMA, a political subdivision
Of the State of California

Susan Gorin, Chair
Board of Supervisors

APPROVED AS TO SUBSTANCE
FOR COUNTY:

Johannes Hoevertsz, Director
Sonoma County Transportation and Public Works

APPROVED AS TO FORM
FOR COUNTY:

Lisa A. Pheatt
Deputy County Counsel

AMENDED EXHIBIT A
COMPANY AFFILIATES

None.

DRAFT

AMENDED EXHIBIT B
MULTIPLE JURISDICTION ROUTES

(see attached)

DRAFT

AMENDED EXHIBIT C
RELATED PARTY ENTITIES

See Section 7.3.3

DRAFT

AMENDED EXHIBIT D
DESCRIPTION OF RATE ZONES

(see attached)

DRAFT

AMENDED EXHIBIT E

SERVICE RATES

(see attached)

DRAFT

AMENDED EXHIBIT F
STREET SWEEPING ROUTES

(see attached)

DRAFT

AMENDED EXHIBIT G
ANNUAL RATE ADJUSTMENT METHODOLOGY FOR
SOLID WASTE COLLECTION RATES

(see attached)

DRAFT

EXHIBIT H

FORM OF GUARANTY

GUARANTY

THIS GUARANTY, INDEMNIFICATION AND RELEASE AGREEMENT (this “**Guaranty**”) is made as of _____, by _____, a _____ corporation (“**Guarantor**”), in favor of **THE COUNTY OF SONOMA**, a political subdivision of the State of California (“**County**”).

RECITALS

A. _____ a _____ corporation, as contractor (“**Contractor**”), and County are parties to that certain [Agreement] dated as of _____, 20__ (the “**Agreement**”) pursuant to which Contractor has agreed to _____. Initially capitalized terms used herein without definition will have the meaning given such term in the Agreement.

B. To induce County to enter into the Agreement and consummate the transactions contemplated thereby, Guarantor has agreed to enter into this Guaranty.

C. Guarantor is an affiliate of Contractor.

D. Without this Guaranty, County would not have entered into the Agreement. Therefore, in consideration of County’s execution of the Agreement, Guarantor has agreed to execute this Guaranty.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows:

1. **Guaranty.** Guarantor guarantees to County and its successors and assigns, the full and prompt payment and performance when due of all of the obligations of Contractor arising out of, in connection with, under or related to the Agreement. The obligations guaranteed pursuant to this Guaranty are collectively referred to herein as the “**Guaranteed Obligations.**”

2. **Unconditional Obligations.** This Guaranty is a guaranty of payment and performance and not of collection and is an absolute, unconditional and irrevocable guarantee of the full and prompt payment and performance when due of all of the Guaranteed Obligations, whether or not from time to time reduced or extinguished or hereafter increased or incurred; whether or not recovery may be, or hereafter may become, barred by any statute of limitations or otherwise; provided, however, that this Guaranty shall not be enforceable against Guarantor to the extent (and only to the extent) it is determined or has been determined not to be enforceable either by an arbitrator pursuant to the Dispute Resolution Provision in the Agreement (the “Dispute Resolution Provision”) or by a court of competent jurisdiction that the Guaranteed Obligations are not enforceable against Contractor. If any payment made by Contractor or any other Person and applied to the Guaranteed Obligations is at any time annulled, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be repaid or refunded, then, to the extent of such payment or repayment, the liability of Guarantor will be and remain in full force and effect as fully as if such payment had never been made. Guarantor

covenants that this Guaranty will not be fulfilled or discharged, except by the complete payment and performance of the Guaranteed Obligations, whether by the primary obligor or Guarantor under this Guaranty. Without limiting the generality of the foregoing, Guarantor's obligations hereunder will not be released, discharged or otherwise affected by (a) any change in the Agreement or the obligations thereunder, or any insolvency, bankruptcy or similar proceeding affecting Contractor, Guarantor or their respective assets; and (b) the existence of any claim or set-off which Contractor has or Guarantor may have against County, whether in connection with this Guaranty or any unrelated transaction, except and only to the extent any claim or set-off is actually allowed either by an arbitrator pursuant to the Dispute Resolution Provision or by a court of competent jurisdiction, provided that nothing in this Guaranty will be deemed a waiver by Guarantor of any claim or prevent the assertion of any claim by separate suit. This Guaranty will in all respects be a continuing, absolute, and unconditional guaranty irrespective of the genuineness, validity, regularity or enforceability of the Guaranteed Obligations or any part thereof or any instrument or agreement evidencing any of the Guaranteed Obligations or relating thereto, or the existence, validity, enforceability, perfection, or extent of any collateral therefor or any other circumstances relating to the Guaranteed Obligations which might otherwise constitute a defense to the Guaranteed Obligations or this Guaranty, except and only to the extent such defenses are adjudicated or have been adjudicated either by an arbitrator pursuant to the Dispute Resolution Provision or by a court of competent jurisdiction.

3. **Independent Obligations.** Guarantor agrees that the Guaranteed Obligations are independent of the obligations of Contractor and if any default occurs hereunder, a separate action or actions may be brought and prosecuted against Guarantor whether or not Contractor is joined therein. County may maintain successive actions for other defaults of Guarantor. County's rights hereunder will not be exhausted by the exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless all Guaranteed Obligations have been paid and fully performed.

a. Guarantor agrees that County may enforce this Guaranty, at any time and from time to time, without the necessity of resorting to or exhausting any security or collateral and without the necessity of proceeding against Contractor. Guarantor hereby waives the right to require County to proceed against Contractor, to exercise any right or remedy under the Agreement or to pursue any other remedy or to enforce any other right.

b. Guarantor will continue to be subject to this Guaranty notwithstanding:
(i) any modification, agreement or stipulation between or among Contractor or County or their respective successors and assigns, with respect to the Agreement or the Guaranteed Obligations;
(ii) any waiver of or failure to enforce any of the terms, covenants or conditions contained in the Agreement or any modification thereof; (iii) any release of Contractor from any liability with respect to the Agreement; or (iv) any release or subordination of any collateral then held by County as security for the performance by Contractor of the Guaranteed Obligations.

c. The Guaranteed Obligations are not conditional or contingent upon the pursuit by County of any remedies which County either now has or may hereafter have with respect thereto under the Agreement.

4. **Liability of Guarantor.**

a. County may enforce this Guaranty upon the occurrence of a breach by Contractor of any of the Guaranteed Obligations (following the expiration of any notice and cure period set forth in the Agreement and applicable to such breach), notwithstanding the existence of any dispute between or among County, Contractor with respect to the existence of such a breach.

b. Guarantor's performance of some, but not all, of the Guaranteed Obligations will in no way limit, affect, modify or abridge Guarantor's liability for those Guaranteed Obligations that have not been performed.

c. County, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability of this Guaranty or giving rise to any reduction, limitation, impairment, discharge or termination of Guarantor's liability hereunder, from time to time may (i) with respect to the financial obligations of Contractor, renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of financial obligations that are Guaranteed Obligations, and/or subordinate the payment of the same to the payment of any other obligations, (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto, (iii) request and accept other guarantees of the Guaranteed Obligations and take and hold security for the payment of this Guaranty or the Guaranteed Obligations, (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any Person with respect to the Guaranteed Obligations, (v) enforce and apply any security hereafter held by or for the benefit of County in respect of this Guaranty or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that County may have against any such security, as County in its discretion may determine, and (vi) exercise any other rights available to it under the Agreement.

d. This Guaranty and the obligations of Guarantor hereunder will be valid and enforceable and will not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than infeasible performance in full of the Guaranteed Obligations), including without limitation the occurrence of any of the following, whether or not Guarantor will have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Agreement, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement or instrument relating thereto; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including without limitation provisions relating to events of default) of the Agreement; (iii) County's consent to the change, reorganization or termination of the corporate structure or existence of Contractor; and (iv) any defenses, set-offs or counterclaims Contractor may allege or assert against County in respect of the Guaranteed Obligations, including but not limited to failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury, or any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to

any extent vary the risk of Guarantor as an obligor in respect of the Guaranteed Obligations except and only to the extent any defenses, set-offs, or counterclaims are actually allowed either by the arbitrator pursuant to the Dispute Resolution Provision or by a court of competent jurisdiction.

e. It is the intent of the parties that the Guarantor's liability for the Guaranteed Obligations shall be limited to that of Contractor, and that this instrument shall not impose greater obligations upon the Guarantor than would be owed to the County by Contractor. Any final determination either by an arbitrator pursuant to the Dispute Resolution Provision or by a court of competent jurisdiction with respect to any of the Guaranteed Obligations shall establish the limits of this Guaranty with respect thereto. Nothing in this Section shall affect the enforceability of the Guarantor's waiver of defenses, subrogation rights, and reimbursement rights set forth in Sections 5 and 6.

5. **Waivers.** To the fullest extent permitted by law, Guarantor hereby waives and agrees not to assert or take advantage of: **(a)** any right to require County to proceed against Contractor or any other Person or to proceed against or exhaust any security held by County at any time or to pursue any right or remedy under the Agreement or any other remedy in County's power before proceeding against Guarantor; **(b)** any defense that may arise by reason of the incapacity, lack of authority, death or disability of, or revocation hereby by Guarantor, Contractor or any other Person or the failure of County to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of any such Person; **(c)** any defense that may arise by reason of any presentment, demand for payment or performance or otherwise, protest or notice of any other kind or lack thereof; **(d)** any right or defense arising out of an election of remedies by County even though the election of remedies, such as nonjudicial foreclosure with respect to any security for the Guaranteed Obligations, has destroyed the Guarantor's rights of subrogation and reimbursement against Contractor by the operation of Section 580d of the Code of Civil Procedure or otherwise; **(e)** all notices to Guarantor, to Contractor or to any other Person, including, but not limited to, notices of the acceptance of this Guaranty or the creation, renewal, extension, modification, accrual of any of the obligations of Contractor under the Agreement, or of default in the payment or performance of any such obligations, enforcement of any right or remedy with respect thereto or notice of any other matters relating thereto; **(f)** any requirements of diligence or promptness on the part of County; **(g)** any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation, including, without limitation, all rights and benefits under Section 2809 of the California Civil Code purporting to reduce a guarantor's obligation in proportion to the obligation of the principal; **(h)** any defense based upon any act or omission of County which directly or indirectly results in or aids the discharge or release of Contractor, Guarantor or any security given or held by County in connection with the Guaranteed Obligations; **(i)** any and all suretyship defenses under applicable law including, but not limited to, any defense under Sections 2787 through 2855, inclusive, of the California Civil Code; and **(j)** any statute of limitations affecting Guarantor's liability hereunder or the enforcement thereof.

6. **Waiver of Subrogation and Rights of Reimbursement.** Until the Guaranteed Obligations have been indefeasibly paid in full, Guarantor waives any claim, right or remedy which it may now have or may hereafter acquire against Contractor that arises from the

performance of Guarantor hereunder, including, without limitation, any claim, right or remedy of subrogation, reimbursement, exoneration, contribution, or indemnification, or participation in any claim, right or remedy of County against Contractor, or any other security or collateral that County now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise.

7. **Waivers by Guarantor if Real Property Security.** If the Guaranteed Obligations are or become secured by real property or an estate for years, Guarantor waives all rights and defenses that Guarantor may have because the Guaranteed Obligations are secured by real property. This means, among other things:

a. County may collect from Guarantor without first foreclosing on any real or personal property collateral pledged by Contractor.

b. If County forecloses on any real property collateral pledged by Contractor:

(1) The amount of the Guaranteed Obligation may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(2) County may collect from Guarantor even if County, by foreclosing on the real property collateral, has destroyed any right Guarantor may have to collect from Contractor.

This is an unconditional and irrevocable waiver of any rights and defenses Guarantor may have because the Guaranteed Obligations secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure.

8. **Default; Cumulative Rights.** The County may declare Guarantor in default under this Guaranty for any failure to fully perform and discharge its obligations and liabilities under this Guaranty. Guarantor and the County specifically agree that, in addition to any and all remedies at law or in equity that the County may have, the County shall be entitled to the remedy of specific performance of any of the provisions and obligations to be performed by Guarantor under this Guaranty and that the County shall be entitled to any other provisional remedies incidental to enforcing such specific performance, including, without limitation, the granting of appropriate injunctive relief. All rights, powers and remedies of County hereunder will be in addition to and not in lieu of all other rights, powers and remedies given to County, whether at law, in equity or otherwise.

9. **Representations and Warranties.** Guarantor represents and warrants that:

a. it is a corporation duly organized, validly existing, and in good standing under the laws of the State of _____ and qualified to do business and is in good standing under the laws of the State of California;

b. it has all requisite corporate power and authority to execute, deliver and perform this Guaranty;

c. the execution, delivery, and performance by Guarantor of this Guaranty have been duly authorized by all necessary corporate action on the part of Guarantor;

d. this Guaranty has been duly executed and delivered and constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms;

e. neither the execution nor delivery of this Guaranty nor compliance with or fulfillment of the terms, conditions, and provisions hereof, will conflict with, result in a material breach or violation of the terms, conditions, or provisions of, or constitute a material default, an event of default, or an event creating rights of acceleration, termination, or cancellation, or a loss of rights under (1) the certificate of incorporation or by-laws of Guarantor, (2) any judgment, decree, order, contract, agreement, indenture, instrument, note, mortgage, lease, governmental permit, or other authorization, right restriction, or obligation to which Guarantor is a party or any of its property is subject or by which Guarantor is bound, or (3) any federal, state, or local law, statute, ordinance, rule or regulation applicable to Guarantor;

f. it now has and will continue to have full and complete access to any and all information concerning the transactions contemplated by the Agreement or referred to therein, and the financial status of Contractor and its ability to perform the Guaranteed Obligations;

g. it has reviewed and approved copies of the Agreement and is fully informed of the remedies County may pursue, with or without notice to Contractor or any other Person, in the event of default of any of the Guaranteed Obligations;

h. it has made and so long as the Guaranteed Obligations (or any portion thereof) remain unsatisfied, it will make its own credit analysis of Contractor and will keep itself fully informed as to all aspects of the financial condition of Contractor, the performance of the Guaranteed Obligations of all circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligations. Guarantor hereby waives and relinquishes any duty on the part of County to disclose any matter, fact or thing relating to the business, operations or conditions of Contractor now known or hereafter known by County;

i. no consent, authorization, approval, order, license, certificate, or permit or act of or from, or declaration or filing with, any governmental authority or any party to any contract, agreement, instrument, lease, or license to which Guarantor is a party or by which Guarantor is bound, is required for the execution, delivery, or compliance with the terms hereof by Guarantor, except as have been obtained prior to the date hereof; and

j. there is no pending or, to the best of its knowledge, threatened action, suit, proceeding, arbitration, litigation, or investigation of or before any Governmental Authority which challenges the validity or enforceability of this Guaranty.

10. **Governing Law.** The validity, interpretation and effect of this Guaranty are governed by and will be construed in accordance with the laws of the State of California applicable to contracts made and performed in such State and without regard to conflicts of law doctrines.

11. **Entire Document.** This Guaranty contains the entire agreement of Guarantor with respect to the transactions contemplated hereby, and supersede all negotiations, representations, warranties, commitments, offers, contracts and writings prior to the date hereof, written or oral, with respect to the subject matter hereof. No waiver, modification or amendment of any provision of this Guaranty is effective unless made in writing and duly signed by County

referring specifically to this Guaranty, and then only to the specific purpose, extent and interest so provided.

12. **Severability.** If any provision of this Guaranty is determined to be unenforceable for any reason by a court of competent jurisdiction, it will be adjusted rather than voided, to achieve the intent of the parties and all of the provisions not deemed unenforceable will be deemed valid and enforceable to the greatest extent possible.

13. **Notices.** Any communication, notice or demand of any kind whatsoever under this Guaranty shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by telex, telegram or telecopying (if confirmed in writing sent by registered or certified mail, postage prepaid, return receipt requested), or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

County of Sonoma
Department of Transportation and Public Works
2300 County Center Drive, Suite B100
Santa Rosa, California 95403
Attn: Director
Phone: (707) 565-2231
Fax: (707) 565-2620

With copies to: County of Sonoma
Office of the County Counsel
575 Administration Drive, Room 105A
Santa Rosa, California 95403
Attn: County Counsel
Phone: (707) 565-2421
Fax: (707) 565-2624

If to Guarantor:

Attn: _____
Phone: _____
Fax: _____

Either Guarantor or County may from time to time change its address for the purpose of notices by a similar notice specifying a new address, but no such change is effective until it is actually received by the party sought to be charged with its contents.

All notices and other communications required or permitted under this Guaranty which are addressed as provided in this Section 13 are effective upon delivery, if delivered personally or by overnight mail, and, are effective five (5) days following deposit in the United States mail, postage prepaid if delivered by mail.

14. **Captions.** The captions of the various Sections of this Guaranty have been inserted only for convenience of reference and do not modify, explain, enlarge or restrict any of the provisions of this Guaranty.

15. **Assignability.** This Guaranty is binding upon and inures to the benefit of the successors and assigns of Guarantor and County, but is not assignable by Guarantor without the prior written consent of County, which consent may be granted or withheld in County's sole discretion. Any assignment by Guarantor effected in accordance with this Section 15 will not relieve Guarantor of its obligations and liabilities under this Guaranty. The sale or other disposition of a majority in interest of the shares of Guarantor or the sale, transfer, or disposition (including by merger) of substantially all of the assets of Guarantor shall be deemed an assignment of this Guaranty subject to consent as required herein.

16. **Construction of Agreement.** Ambiguities or uncertainties in the wording of this Guaranty will not be construed for or against any party, but will be construed in the manner that most accurately reflects the parties' intent as of the date hereof.

17. **No Waiver.** Any forbearance or failure to exercise, and any delay by County in exercising, any right, power or remedy hereunder will not impair any such right, power or remedy or be construed to be a waiver thereof, nor will it preclude the further exercise of any such right, power or remedy.

18. **Bankruptcy; Post-Petition Interest; Reinstatement of Guaranty.**

(a) The obligations of Guarantor under this Guaranty will not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Contractor or by any defense which Contractor may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding. County is not obligated to file any claim relating to the Guaranteed Obligations if Contractor becomes subject to a bankruptcy, reorganization, or similar proceeding, and the failure of County so to file will not affect Guarantor's obligations under this Guaranty.

(b) Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any proceeding referred to in clause (a) above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if said proceedings had not been commenced) will be included in the Guaranteed Obligations because it is the intention of Guarantor and County that the Guaranteed Obligations should be determined without regard to any rule of law or order which may relieve Contractor of any portion of such Guaranteed Obligations. Guarantor will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or any similar person to pay County, or allow the claim of County in respect of, any such interest accruing after the date on which such proceeding is commenced.

19. **Attorneys' Fees.** Should any litigation be commenced under this Guaranty, the successful party in such litigation shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses, and court or other costs incurred in such litigation. For purposes of this clause, the

term “successful party” means the net winner of the dispute, taking into account the claims pursued, the claims on which the pursuing party was successful, the amount of money sought, the amount of money awarded, and offsets or counterclaims pursued (successfully or unsuccessfully) by the other party. If a written settlement offer is rejected and the judgment or award finally obtained is equal to or more favorable to the offeror than an offer made in writing to settle, the offeror is deemed to be the successful party from the date of the offer forward.

20. **CONSENT TO JURISDICTION.** GUARANTOR AND THE COUNTY AGREE THAT ANY ACTION OR PROCEEDING TO RESOLVE A DISPUTE BETWEEN GUARANTOR AND COUNTY CONCERNING THE INTERPRETATION, APPLICATION OR ENFORCEMENT OF THE TERMS OF THIS GUARANTY MAY ONLY BE BROUGHT IN SUPERIOR COURT FOR THE COUNTY OF SONOMA OR U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA. EACH OF GUARANTOR AND COUNTY ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. IF NOT A RESIDENT OF THE STATE OF CALIFORNIA, GUARANTOR MUST APPOINT AND MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THE STATE OF CALIFORNIA.

[signatures on next page]

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first written above.

GUARANTOR:

a _____ corporation

By:

Name: _____
Title: _____

DRAFT

EXHIBIT I

FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____, a California _____ as PRINCIPAL, and _____, a Corporation organized and doing business by virtue of the laws of the State of California, and duly licensed for the purpose of making, guaranteeing, or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as SURETY, are held and firmly bound to County, hereinafter called OBLIGEE, in the penal sum of One Hundred Thousand Dollars (\$100,000) lawful money of the United States, for the payment of which, well and truly to be made, we and each of us hereby bind ourselves, and our and each of our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above bounden PRINCIPAL has entered into a contract, entitled "COLLECTION AND DISPOSAL OF SOLID WASTE" with County, to do and perform the following work, to wit: collect Solid Waste generated within the Service Area, in accordance with the contract.

NOW, THEREFORE, if the above bounden PRINCIPAL shall well and truly perform, or cause to be performed each and all of the requirements and obligations of said contract to be performed by said PRINCIPAL, as in said contract set forth, then this BOND shall be null and void; otherwise it will remain in full force and effect.

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

IN WITNESS WHEREOF, said PRINCIPAL and said SURETY have caused these presents to be duly signed and sealed this _____ day of _____, 2006.

these presents to be duly signed and sealed this _____ day of _____, 2006.

a California Corporation SURETY

By: _____ By: _____

(PRINCIPAL) (ATTORNEY IN FACT)

(SEAL) (SEAL)

EXHIBIT J

LIQUIDATED DAMAGES

	Description of Failure	Years 1 – 5 After 3 rd Occurrence	Years 6 – 10 After 3 rd Occurrence	Years 11 –15 After 3 rd Occurrence	Years 16 – 20 After 3 rd Occurrence
a.	Failure or neglect to resolve each complaint within the time set forth in this Agreement.	\$300.00 per incident per Customer.	\$450.00 per incident per Customer.	\$600.00 per incident per Customer.	\$750.00 per incident per Customer.
b.	Failure to clean up spillage or litter caused by Company.	\$300.00 per incident per location.	\$450.00 per incident per location.	\$600.00 per incident per location.	\$750.00 per incident per location.
c.	Failure to repair damage to customer property caused by Company or its personnel.	\$500.00 per incident per location.	\$750 .00 per incident per location.	\$1000.00 per incident per location.	\$1250.00 per incident per location.
d.	Failure to maintain equipment in a clean, safe, and sanitary manner.	\$300.00 per incident per day.	\$450.00 per incident per day.	\$600.00 per incident per day.	\$750.00 per incident per day.
e.	Failure to have a vehicle operator properly licensed.	\$300.00 per incident per day.	\$450.00 per incident per day.	\$600.00 per incident per day.	\$750.00 per incident per day.
f.	Failure to maintain office hours as required by this Agreement.	\$300.00 per incident per day.	\$450.00 per incident per day.	\$600.00 per incident per day.	\$750.00 per incident per day.
g.	Failure to maintain or timely submit to County all documents and reports required under the provisions of this Agreement.	\$300.00 per incident per day.	\$450.00 per incident per day.	\$600.00 per incident per day.	\$750.00 per incident per day.
h.	Failure to properly cover collected materials in collection vehicles.	\$300.00 per incident.	\$450.00 per incident.	\$600.00 per incident.	\$750.00 per incident.

i.	Failure to display Company's name and customer service phone number on collection vehicles.	\$300.00 per incident per day.	\$450.00 per incident per day.	\$600.00 per incident per day.	\$750.00 per incident per day.
j.	Failure to comply with the hours of operation as required by this Agreement.	\$500.00 per incident per day.	\$750.00 per incident per day.	\$1000.00 per incident per day.	\$1250.00 per incident per day.
k.	Failure or neglect to complete at least ninety percent (90%) of each route on the regular scheduled collection service work day.	\$300.00 for each route not completed.	\$450.00 for each route not completed.	\$600.00 for each route not completed.	\$750.00 for each route not completed.
l.	Changing collection routes without proper notification to the County Manager	\$500.00 per incident per day.	\$750.00 per incident per day.	\$1000.00 per incident per day.	\$1250.00 per incident per day.
m.	Commingling of non-Recyclable Materials with Recyclable Materials.	\$300.00 per incident.	\$450.00 per incident.	\$600.00 per incident.	\$750.00 per incident.
n.	Commingling of materials collected inside and outside the Service Area without proper authorization from County Manager.	\$1,000.00 per incident.	\$1,500.00 per incident.	\$2,000.00 per incident.	\$2,500.00 per incident.
o.	Failure to repair or replace damaged containers within the time required by this Agreement.	\$100.00 per incident per day.	\$150.00 per incident per day.	\$200.00 per incident per day.	\$250.00 per incident per day.
p.	Failure to deliver or exchange containers within the time required by this Agreement.	\$100.00 per incident per day.	\$150.00 per incident per day.	\$200.00 per incident per day.	\$250.00 per incident per day.
r.	Failure to have Company personnel in proper uniform.	\$100.00 per incident per day.	\$150.00 per incident per day.	\$200.00 per incident per day.	\$250.00 per incident per day.

s.	Disposal of Recyclable Materials in a landfill without first obtaining the required permission of County.	\$300.00 per occurrence.	\$450.00 per occurrence.	\$600.00 per occurrence.	\$750.00 per occurrence.
t.	Failure to deliver any collected Solid Waste to the County's designated disposal site.	\$500 first failure \$2,500 each subsequent failure.	\$750 first failure \$3,500 each subsequent failure.	\$1,000 first failure \$4,000 each subsequent failure.	\$1,250 first failure \$5,000 each subsequent failure.
w.	Failure to comply with Section 4.2.6 (Notification of Delivery of Source Separated Recyclable Materials to a Non-Affiliated Company)	n/a	\$450.00 per incident per failure to notify plus \$20 per ton of materials directed to the non-affiliated company.	\$600.00 per incident per failure to notify plus \$30 per ton of materials directed to the non-affiliated company.	\$750.00 per incident per failure to notify plus \$40 per ton of materials directed to the non-affiliated company.