



**AMENDED AND RESTATED  
FRANCHISE AGREEMENT  
FOR INTEGRATED SOLID WASTE  
MANAGEMENT SERVICES  
BETWEEN THE CITY OF LA HABRA  
AND CR&R INCORPORATED**

**AMENDED AND RESTATED FRANCHISE AGREEMENT  
FOR INTEGRATED SOLID WASTE  
MANAGEMENT SERVICES  
BETWEEN THE CITY OF LA HABRA  
AND CR&R INCORPORATED**

**TABLE OF CONTENTS**

|   |          |
|---|----------|
| <b>RECITALS</b> .....                                   | <b>1</b> |
| <b>SECTION 1 DEFINITIONS</b> .....                      | <b>3</b> |
| 1.1 ACT.....  | 3        |
| 1.2 ACUTELY HAZARDOUS WASTE.....                        | 3        |
| 1.3 BIN.....  | 3        |
| 1.4 BIN COLLECTION SERVICE.....                         | 3        |
| 1.5 BULKY ITEMS.....                                    | 3        |
| 1.6 CART.....   | 4        |
| 1.7 CART COLLECTION SERVICE.....                        | 4        |
| 1.8 CITY.....   | 4        |
| 1.9 CITY MANAGER.....                                   | 4        |
| 1.10 CONTAINER.....                                     | 4        |
| 1.11 COMMERCIAL PREMISES.....                           | 4        |
| 1.12 COMPLAINT.....                                     | 4        |
| 1.13 CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR..... | 5        |
| 1.14 CONSTRUCTION AND DEMOLITION DEBRIS.....            | 5        |
| 1.15 CONTRACT RIGHTS.....                               | 5        |
| 1.16 COVERED PROJECT.....                               | 5        |
| 1.17 CUSTOMER.....                                      | 5        |
| 1.18 DIRECTOR.....                                      | 5        |
| 1.19 DISALLOWED COSTS.....                              | 6        |
| 1.20 DISPOSAL.....                                      | 6        |
| 1.21 DISPOSAL SITE.....                                 | 6        |
| 1.22 DWELLING UNIT.....                                 | 6        |
| 1.23 FOOD WASTE.....                                    | 6        |
| 1.24 FRANCHISE FEE.....                                 | 7        |
| 1.25 GREEN WASTE.....                                   | 7        |
| 1.26 GREEN WASTE CONTAINERS.....                        | 7        |
| 1.27 GROSS RECEIPTS.....                                | 7        |
| 1.28 HAZARDOUS SUBSTANCE.....                           | 7        |
| 1.29 HAZARDOUS WASTE.....                               | 8        |
| 1.30 HOUSEHOLD HAZARDOUS WASTE.....                     | 8        |
| 1.31 LOW-LEVEL RADIOACTIVE WASTE.....                   | 8        |
| 1.32 MATERIAL RECOVERY FACILITY.....                    | 9        |
| 1.33 MEDICAL WASTE.....                                 | 9        |
| 1.34 MULCH.....   | 9        |

|  |   |           |
|--|---|-----------|
| 1.35   | MULTI-FAMILY RESIDENTIAL PREMISES.....                    | 9         |
| 1.36   | ORGANIC WASTE .....                                       | 10        |
| 1.37   | OVERLOAD .....  | 10        |
| 1.38   | PERSON.....   | 10        |
| 1.39   | PREMISES .....  | 10        |
| 1.40   | RECYCLABLE MATERIAL .....                                 | 10        |
| 1.41   | RECYCLED.....   | 11        |
| 1.42   | REFUSE.....   | 11        |
| 1.43   | ROLLOFF BOX .....   | 11        |
| 1.44   | ROLLOFF BOX COLLECTION SERVICE .....                      | 11        |
| 1.45   | SANITATION FEE .....                                      | 11        |
| 1.46   | SCAVENGING.....   | 11        |
| 1.47   | SHARPS WASTE .....  | 12        |
| 1.48   | STINGER SERVICE .....                                     | 12        |
| 1.49   | SINGLE-FAMILY RESIDENTIAL PREMISES.....                   | 12        |
| 1.50   | SOLID WASTE .....   | 12        |
| 1.51   | SOLID WASTE FACILITY .....                                | 12        |
| 1.52   | SOLID WASTE HANDLING SERVICE.....                         | 12        |
| 1.53   | WASTE MANAGEMENT PLAN.....                                | 13        |
| <b>SECTION 2 GRANT OF RIGHT AND PRIVILEGE TO COLLECT SOLID WASTE .....</b> |   | <b>14</b> |
| 2.1  | BINDING AGREEMENT.....                                    | 14        |
| 2.2  | GRANT OF RIGHTS; EXCLUSIONS .....                         | 14        |
| 2.3  | EXCEPTIONS TO EXCLUSIVITY .....                           | 14        |
| 2.4  | ENFORCEMENT OF EXCLUSIVITY.....                           | 15        |
| 2.5  | SALE OR GIFT OF RECYCLABLE MATERIALS.....                 | 16        |
| 2.6  | ANNEXATION .....  | 16        |
| <b>SECTION 3 REPRESENTATIONS AND WARRANTIES.....</b>                       |   | <b>17</b> |
| <b>SECTION 4 ACCEPTANCE AND WAIVER.....</b>                                |   | <b>19</b> |
| <b>SECTION 5 EFFECTIVE DATE AND TERM.....</b>                              |   | <b>20</b> |
| 5.1  | CONDITIONS TO EFFECTIVENESS OF AGREEMENT.....             | 20        |
| 5.1.1.   | Accuracy of Representation.....                           | 20        |
| 5.1.2.   | Absence of Litigation.....                                | 20        |
| 5.1.3.   | Furnishing of Insurance, Bond, and Letter of Credit ..... | 20        |
| 5.1.4.   | Effectiveness of City Council Action.....                 | 20        |
| 5.2  | EFFECTIVE DATE .....                                      | 20        |
| 5.3  | TERM.....   | 21        |
| 5.4  | CITY'S OPTION TO EXTEND TERM.....                         | 21        |
| <b>SECTION 6 FRANCHISED SERVICES.....</b>                                  |   | <b>22</b> |
| 6.1  | SOLID WASTE SERVICES – GENERAL .....                      | 22        |
| 6.2  | SINGLE-FAMILY SERVICES .....                              | 22        |
| 6.2.1.   | Refuse Collection .....                                   | 22        |
| 6.2.2.   | Recyclables Collection.....                               | 23        |
| 6.2.3.   | Green Waste Collection.....                               | 23        |
| 6.2.4.   | Single-family Organics Collection Program.....            | 24        |
| 6.2.5.   | Optional Premium Walk-up Service .....                    | 25        |

|   |  |           |
|---|--|-----------|
| 6.2.6.  | Optional Special Truck Service .....                                       | 26        |
| 6.2.7.  | Low-Income Senior Citizen Discount .....                                   | 26        |
| 6.2.8.  | Bulky Items Collection .....   | 27        |
| 6.2.9.  | CUB (Clean-up Bin) Bin Service.....  | 27        |
| 6.2.10.   | Christmas Trees.....   | 28        |
| 6.2.11.   | Single-family Bin Service .....  | 28        |
| 6.2.12.   | Plastic Bag Recycling.....   | 28        |
| 6.2.13.   | Publicizing of Recycling Locations – Single Family Customers.....          | 28        |
| 6.3   | MULTI-FAMILY AND COMMERCIAL SERVICES.....                                  | 28        |
| 6.3.1.  | Multi-family Cart Collection Service.....                                  | 28        |
| 6.3.2.  | Multi-family and Commercial Bin Collection Service - Refuse .....          | 29        |
| 6.3.3.  | Multi-family and Commercial Bin Collection Service - Recyclables.....      | 29        |
| 6.3.4.  | Commercial Cart Service .....  | 30        |
| 6.3.5.  | Commercial Food Waste Collection - Bin and Cart Service.....               | 30        |
| 6.3.6.  | Multi-family Green Waste Collection – Bin and Cart Service.....            | 31        |
| 6.3.7.  | Locking Bins .....   | 32        |
| 6.3.8.  | Push-out Service.....  | 32        |
| 6.3.9.  | Stinger Service .....  | 32        |
| 6.3.10.   | Bulky Items – Commercial Cart and Bin Customers .....                      | 32        |
| 6.3.11.   | Christmas Trees – Multi-family .....                                       | 33        |
| 6.3.12.   | Publicizing of Recycling Locations – Multi-family and Commercial Customers | 33        |
| 6.4   | COMMERCIAL SERVICES - ROLLOFF BOX COLLECTION.....                          | 33        |
| 6.4.1.  | Rolloff Box Collection Service - Refuse .....                              | 33        |
| 6.4.2.  | Rolloff Box Collection Service – C & D Debris.....                         | 33        |
| 6.4.3.  | Rolloff Box Collection Service – Source Separated Recyclables .....        | 34        |
| 6.5   | OTHER SERVICES .....   | 34        |
| 6.5.1.  | City Facilities .....  | 34        |
| 6.5.2.  | City Sponsored Special Events.....   | 35        |
| 6.5.3.  | City Sponsored Cleanup Projects .....                                      | 35        |
| 6.5.4.  | Mulch Give-away.....   | 35        |
| 6.5.5.  | Bus Stop Receptacles .....   | 35        |
| 6.5.6.  | Abandoned Items.....   | 36        |
| 6.5.7.  | Street Litter Containers .....   | 36        |
| 6.5.8.  | Household Hazardous Waste Collection Events.....                           | 36        |
| 6.5.9.  | Conditionally Exempt Small Quantity Generators .....                       | 37        |
| 6.5.10.   | Contributions to City Sponsored Special Events.....                        | 37        |
| 6.5.11.   | Annual Contribution for Code Enforcement .....                             | 37        |
| 6.6   | SHARPS WASTE .....   | 37        |
| 6.6.1.  | Community Development Review Services.....                                 | 37        |
| 6.7   | HOURS OF COLLECTION; HOLIDAYS .....  | 38        |
| 6.8   | CUSTOMER EDUCATION PROGRAM.....  | 38        |
| <b>SECTION 7 COLLECTION EQUIPMENT.....</b>                          |  | <b>39</b> |
| <b>SECTION 8 CITY'S ABILITY TO CONTROL FLOW OF SOLID WASTE.....</b> |  | <b>40</b> |
| 8.1   | FLOW CONTROL OPTION .....  | 40        |
| 8.2   | WASTE DISPOSAL AGREEMENT WITH THE COUNTY OF ORANGE .....                   | 40        |
| <b>SECTION 9 PRIVACY.....</b>                                       |  | <b>42</b> |

|  |  |           |
|--|--|-----------|
| 9.1  | GENERAL.....   | 42        |
| 9.2  | MAILING LISTS.....                                       | 42        |
| 9.3  | PRIVACY RIGHTS CUMULATIVE.....                           | 42        |
| <b>SECTION 10 SERVICE EXCEPTIONS; HAZARDOUS WASTE NOTIFICATIONS.....</b> |  | <b>43</b> |
| 10.1   | REFUSAL OR FAILURE TO COLLECT.....                       | 43        |
| 10.2   | HAZARDOUS WASTE INSPECTION AND REPORTING.....            | 43        |
| 10.3   | HAZARDOUS WASTE DIVERSION RECORDS.....                   | 43        |
| <b>SECTION 11 CUSTOMER SERVICE.....</b>                                  |  | <b>44</b> |
| 11.1   | OFFICE HOURS.....  | 44        |
| 11.2   | EMERGENCY TELEPHONE NUMBER.....                          | 44        |
| 11.3   | SERVICE COMPLAINTS.....                                  | 44        |
| 11.4   | CUSTOMER SERVICE STANDARDS.....                          | 45        |
| 11.5   | EMPLOYEE LIST.....                                       | 45        |
| 11.6   | DRIVER'S LICENSE.....                                    | 45        |
| 11.7   | TRAINING AND LEGAL COMPLIANCE.....                       | 46        |
| <b>SECTION 12 OWNERSHIP OF SOLID WASTE.....</b>                          |  | <b>47</b> |
| <b>SECTION 13 MARKETING OF RECYCLABLE SOLID WASTE.....</b>               |  | <b>48</b> |
| <b>SECTION 14 RATES AND BILLING.....</b>                                 |  | <b>49</b> |
| 14.1   | RATES.....   | 49        |
| 14.2   | FRANCHISE AND SANITATION FEES - GENERAL.....             | 49        |
| 14.3   | FRANCHISE AND SANITATION FEES - PAID BY CONTRACTOR.....  | 49        |
| 14.4   | FRANCHISE AND SANITATION FEES - REMITTED TO CITY.....    | 50        |
| 14.5   | ADJUSTMENT OF RATES.....                                 | 50        |
| 14.6   | EXTRAORDINARY RATE ADJUSTMENT.....                       | 52        |
| 14.7   | COMPETITIVE RATE GUARANTEE.....                          | 53        |
| 14.8   | RESOLUTION OF DISPUTES REGARDING RATE ADJUSTMENTS.....   | 54        |
| 14.9   | ACCOUNT DELINQUENCIES.....                               | 54        |
| 14.10  | BILLING BY CONTRACTOR.....                               | 55        |
| 14.11  | BILLING BY CITY.....                                     | 55        |
| 14.12  | PAYMENT BY CITY TO CONTRACTOR.....                       | 55        |
| <b>SECTION 15 CONTRACTOR'S BOOKS AND RECORDS; AUDITS.....</b>            |  | <b>56</b> |
| 15.1   | RECORD RETENTION.....                                    | 56        |
| 15.2   | AUDITS.....  | 56        |
| 15.3   | TRIENNIAL PERFORMANCE AUDITS.....                        | 56        |
| 15.4   | OVERPAYMENT OR UNDERPAYMENT.....                         | 57        |
| <b>SECTION 16 THE ACT REPORTING REQUIREMENTS.....</b>                    |  | <b>58</b> |
| <b>SECTION 17 FINANCIAL REPORTS AND ADVERSE INFORMATION.....</b>         |  | <b>59</b> |
| 17.1   | MONTHLY AND QUARTERLY REPORTS AND OTHER INFORMATION..... | 59        |
| 17.2   | ANNUAL REPORT.....                                       | 60        |
| 17.3   | REPORTING ADVERSE INFORMATION.....                       | 60        |
| 17.4   | FAILURE TO REPORT.....                                   | 61        |
| 17.5   | CITY'S REVIEW OF CONTRACTOR'S PERFORMANCE.....           | 61        |
| 17.6   | COSTS.....   | 61        |

|  |   |           |
|--|---|-----------|
| 17.7   | SUBMISSION OF REPORTS .....                   | 62        |
| 17.8   | CERCLA DEFENSE RECORDS.....                   | 62        |
| <b>SECTION 18 COMPLIANCE WITH LAWS AND REGULATIONS.....</b>          |   | <b>63</b> |
| <b>SECTION 19 INDEMNIFICATION AND INSURANCE.....</b>                 |   | <b>64</b> |
| 19.1   | INDEMNIFICATION OF CITY.....                  | 64        |
| 19.2   | HAZARDOUS SUBSTANCES INDEMNIFICATION .....    | 65        |
| 19.3   | THE ACT INDEMNIFICATION .....                 | 67        |
| <b>SECTION 20 INSURANCE COVERAGE .....</b>                           |   | <b>67</b> |
| 20.1   | ENDORSEMENTS .....                            | 68        |
| 20.2   | NOTICE OF CANCELLATION.....                   | 69        |
| 20.3   | WAIVER OF SUBROGATION .....                   | 69        |
| 20.4   | EVIDENCE OF INSURANCE COVERAGE .....          | 69        |
| 20.5   | DEDUCTIBLE OR SELF-INSURED RETENTION .....    | 70        |
| 20.6   | CONTRACTUAL LIABILITY.....                    | 70        |
| 20.7   | FAILURE TO MAINTAIN COVERAGE.....             | 70        |
| 20.8   | ACCEPTABILITY OF INSURERS .....               | 70        |
| 20.9   | CLAIMS MADE POLICIES.....                     | 71        |
| 20.10  | REDUCTION OF CERCLA AND OTHER LIABILITY ..... | 71        |
| <b>SECTION 21 CASH AND PERFORMANCE BONDS .....</b>                   |   | <b>72</b> |
| <b>SECTION 22 EMERGENCY SERVICE.....</b>                             |   | <b>74</b> |
| <b>SECTION 23 ADMINISTRATIVE REMEDIES; TERMINATION .....</b>         |   | <b>75</b> |
| 23.1   | NOTICE; RESPONSE; RESOLUTION; APPEAL .....    | 75        |
| 23.2   | CITY COUNCIL HEARING.....                     | 76        |
| 23.3   | CITY COUNCIL DETERMINATION.....               | 77        |
| 23.4   | RESERVATION OF RIGHTS BY CITY .....           | 77        |
| 23.5   | CUMULATIVE RIGHTS .....                       | 78        |
| <b>SECTION 24 APPEAL TO JUDICIAL COURT; HEARING PROCEDURES .....</b> |   | <b>79</b> |
| <b>SECTION 25 CITY'S ADDITIONAL REMEDIES.....</b>                    |   | <b>80</b> |
| <b>SECTION 26 TRANSFER OF RIGHTS; CITY CONSENT; FEES.....</b>        |   | <b>81</b> |
| <b>SECTION 27 GENERAL PROVISIONS.....</b>                            |   | <b>82</b> |
| 27.1   | FORCE MAJEURE.....                            | 82        |
| 27.2   | LABOR DISTURBANCE .....                       | 82        |
| 27.3   | COMPUTER HARDWARE AND SOFTWARE .....          | 82        |
| 27.4   | INDEPENDENT STATUS.....                       | 82        |
| 27.5   | PAVEMENT DAMAGE .....                         | 83        |
| 27.6   | PROPERTY DAMAGE.....                          | 83        |
| 27.7   | LAW TO GOVERN; VENUE.....                     | 83        |
| 27.8   | GRATUITIES .....                              | 83        |
| 27.9   | ACT AMENDMENTS.....                           | 83        |
| 27.10  | AMENDMENTS.....                               | 84        |
| 27.11  | NOTICES .....                                 | 84        |
| 27.12  | CONTRACT ADMINISTRATIVE PROCESSING FEE.....   | 85        |
| 27.13  | SAVINGS CLAUSE AND ENTIRETY .....             | 85        |

27.14 JOINT DRAFTING ..... 85  
27.15 ATTORNEY'S FEES ..... 85  
27.16 ENTIRE AGREEMENT ..... 85

**EXHIBIT A REFUSE RATE SCHEDULE ..... A-1**  
**EXHIBIT B SERVICE SCHEDULE FOR CITY FACILITIES ..... B-1**  
**EXHIBIT C CITY SPONSORED EVENTS ..... C-1**  
**EXHIBIT D BUS STOP RECEPTACLES ..... D-1**  
**EXHIBIT E RATE ADJUSTMENT EXAMPLE ..... E-1**  
**EXHIBIT F CITIES WITH SIMILAR SERVICES ..... F-1**

**AGREEMENT FOR  
INTEGRATED SOLID WASTE MANAGEMENT SERVICES**

This **AGREEMENT FOR INTEGRATED WASTE MANAGEMENT SERVICES** ("Agreement") is entered into this 3rd day of December, 2018, by and between the **CITY OF LA HABRA** ("City"), a California municipal corporation, and **CR&R Incorporated**, ("**Contractor**"), for the collection, transportation, recycling, composting and disposal of solid waste.

**RECITALS**

**WHEREAS**, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989, (California Public Resources Code Section 40000 et seq. or the "Act") established a solid waste management process which requires cities and other local jurisdictions to implement plans for source reduction, reuse and recycling as integrated waste management practices; and

**WHEREAS**, the California Public Resources Code, including § 40059, provides that aspects of solid waste handling of local concern include but are not limited to 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**, the City is obligated to protect the public health and safety of the residents and businesses of the City of La Habra and collection of solid waste should be made in a manner consistent with the exercise of the City's obligations for the protection of public health and safety; and

**WHEREAS**, the City and Contractor are mindful of the provisions of the laws governing the safe collection, transport, recycling and disposal of solid waste, including California Public Resources Code Section 40000 et seq., the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 et seq. and the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 et seq.; and

**WHEREAS**, the City and Contractor desire to leave no doubts as to their respective roles and to make it clear that by entering into this Agreement, City is not thereby becoming a "generator" or an "arranger" as those terms are used in the context of CERCLA § 107(a)(3)

and that it is Contractor, an independent entity, and not City, which will collect from premises in the City of La Habra, transport and dispose of solid wastes (which may contain small amounts of consumer products with the characteristics of hazardous substances); collect, transport, and recycle and/or compost green waste and recyclable solid wastes collected from premises in the City of La Habra; and

**WHEREAS**, the City, by this Agreement does not instruct Contractor on its collection methods, nor supervise the collection of waste; and

**WHEREAS**, the City has entered into a Waste Disposal Agreement (WDA) with the County of Orange. Under the terms of the WDA, the City is obligated to exercise all its legal and contractual power and authority to cause the delivery of all waste collected and hauled by its franchised hauler to be ultimately delivered to the landfills operated by the County of Orange; and

**WHEREAS**, City and Contractor are mindful of new laws adopted by the State of California intended to divert recyclables and organic materials from being landfilled. AB 341 mandates that commercial waste generators arrange for recycling services. AB 1826 mandates that commercial waste generators recycle their organic waste. AB 1594 will end the practice of excluding organic material used as Alternative Daily Cover (ADC) from the calculation of a jurisdiction's total per capita amount of waste disposed. SB 1383 allows the Department of Resources Recycling and Recovery (CalRecycle) to implement new regulations on local jurisdictions if significant progress has not been made in certain waste reduction goals by 2020, and;

**WHEREAS**, Contractor represents and warrants to City that it has the experience, responsibility and qualifications to conduct recycling programs, to provide City with information sufficient to meet the City's reporting requirements under the Act, to assist the City in meeting City's other requirements under the Act, to collect, transport and dispose of solid waste in a safe manner which will minimize the adverse effects of collection vehicles on air quality and traffic and has the ability to indemnify the City against liability under CERCLA; and

**WHEREAS**, the City Council of the City of La Habra determines and finds pursuant to California Public Resources Code Section 40059(a)(1), that the public health, safety and well-being, including the minimization of adverse impacts on air quality and traffic from excessive numbers of collection vehicles, and the protection of the City against CERCLA liability, require that Contractor be awarded a contract for collection, recycling and disposal of solid waste from premises in the City of La Habra.

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

### **Section 1 DEFINITIONS**

Whenever any term used in this Agreement has been defined by the La Habra City Code, and/or the California Public Resources Code Section 40100 et. seq., the definitions in the City Code and Public Resources Code shall apply unless the term is otherwise defined in this Agreement.

#### **1.1 ACT**

'The Act' means the California Integrated Waste Management Act of 1989, codified in part at Public Resources Code section 40000 et. seq., as it may be amended from time to time and as implemented by the regulations of the California Integrated Waste Management Board, or its successor agency.

#### **1.2 ACUTELY HAZARDOUS WASTE**

'Acutely Hazardous Waste' means Hazardous Waste that is considered to present a substantial hazard whether managed properly or not. Acutely Hazardous Waste are chemicals that are 'P-listed' substances pursuant to Title 40, Part 261, Subpart D of the Code of Federal Regulations.

#### **1.3 BIN**

'Bin' means a metal Container with plastic lids and a capacity from 1.5 to 8 cubic yards, which is typically emptied by a front-loading collection vehicle.

#### **1.4 BIN COLLECTION SERVICE**

'Bin Collection Service' means providing Solid Waste Handling Services using Bins.

#### **1.5 BULKY ITEMS**

'Bulky Items' means Solid Waste that cannot or would not typically be accommodated within a Cart including specifically: furniture (including chairs, sofas, mattresses, and rugs); appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as "white goods"); yard debris, Green Waste and small pieces of wood; electronic equipment (including stereos, televisions, laptop computers, computers and computer monitors, VCRs, microwaves, cell phones, and other similar items commonly known as

"brown goods" and "e-waste"); fluorescent bulbs; household batteries; and clothing. Bulky Items do not include car bodies, tires, Construction and Demolition Debris or items requiring more than two persons to remove.

**1.6 CART**

'Cart' means a plastic Container with a capacity from 35 to 101 gallons, which is typically emptied by an automated side-loading collection vehicle.

**1.7 CART COLLECTION SERVICE**

'Cart Collection Service' means providing Solid Waste Handling Services using Carts.

**1.8 CITY**

'City' means the City of La Habra, California, a municipal corporation, and all the territory lying within the municipal boundaries of the City as it currently exists, or as such boundaries may be adjusted.

**1.9 CITY MANAGER**

'City Manager' means the City Manager or his or her designee.

**1.10 CONTAINER**

'Container' means a receptacle designed to receive and hold Solid Waste.

**1.11 COMMERCIAL PREMISES**

'Commercial Premises' means any non-residential Premises upon which Solid Waste is generated or accumulated. Most Commercial Premises receive either Bin Collection Service or Rolloff Collection Service. A few Commercial Premises may receive Cart Collection Service.

**1.12 COMPLAINT**

'Complaint' means a grievance, criticism, or objection in the form of a written letter, email, online complaint, or telephone call either to the City or to the Contractor regarding Contractor's performance of its duties under the terms of this Agreement. Complaints include continued failure to Collect after the Contractor is initially notified of a missed pick-up, property damage caused by the Contractor, tardy service, unresponsiveness to requests, billing problems, and similar issues. "Complaints" exclude normal or standard service

requests (e.g., missed pickups due to late set outs, exchanging a barrel, can, or cart), and criticisms directed at the City's solid waste ordinance and its provisions.

#### **1.13 CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR**

Conditionally Exempt Small Quantity Generator means a Customer located on a Commercial Premises in the City that: (a) generates less than 100 kilograms of Hazardous Waste per month, (b) generates less than 1 kilogram of Acutely Hazardous Waste per month, and meets the requirements of a 'conditionally exempt small quantity generator' pursuant to Title 40, Part 261, Subpart A of the Code of Federal Regulations.

#### **1.14 CONSTRUCTION AND DEMOLITION DEBRIS**

'Construction and Demolition Debris' means discarded building materials, recyclable construction and demolition materials, wood, packaging, plaster, rock or brick, soil, drywall, cement and rubble resulting from construction, remodeling, repair and demolition operations.

#### **1.15 CONTRACT RIGHTS**

'Contract Rights' means the rights and privileges granted to Contractor by this Agreement.

#### **1.16 COVERED PROJECT**

'Covered Project' means a construction or demolition project, which meets the criteria outlined in the summary of Chapter 15.74 of the La Habra City Code. These criteria are: (1) Residential additions of 1,000 square feet or more of gross floor area; (2) Tenant improvements of 3,000 square feet or more of gross floor area; (3) New structures of 1,000 square feet or more of gross floor area; (4) Demolition of 1,000 square feet or more of gross floor area; (5) All City public works and construction projects which are awarded pursuant to the competitive bid procedure established by Chapter 4.20.040 of the La Habra Municipal Code.

#### **1.17 CUSTOMER**

'Customer' means any Person receiving Solid Waste Handling Services from Contractor within the City.

#### **1.18 DIRECTOR**

'Director' means the Director of Public Works or his or her designee.

### 1.19 DISALLOWED COSTS

'Disallowed Cost(s)' means any expenditure for free services incurred by Contractor in connection with or arising from Contractor's provision of Collection Services under, and in compliance with, this Agreement that shall not be recoverable from the revenues generated from the charges for providing Collection Services but shall be the sole responsibility of Contractor and may be funded from other sources such as owners' equity, retained earnings, sale of recyclable materials, and interest on investments, etc. Disallowed Costs shall not be passed through to the Customers and shall not be used to calculate the cost of providing service for rate setting under Article XIII C and D of the California Constitution (Proposition 218).

### 1.20 DISPOSAL

'Disposal' means the final deposition of Solid Waste at a permitted landfill that is in full compliance with all laws and regulations.

### 1.21 DISPOSAL SITE

'Disposal Site' means the place, location, tract of land, area, or premises in use, intended to be used, or which has been used, for the landfill Disposal of Solid Waste.

### 1.22 DWELLING UNIT

'Dwelling Unit' means a group of interconnected rooms located within an attached or detached building forming a single and independent habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating for the exclusive occupancy by one family and not having more than one kitchen.

### 1.23 FOOD WASTE

'Food Waste' means waste that will decompose and/or putrefy and is segregated for Collection and Recycling. Food waste includes: (i) kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) discarded paper that is contaminated with Food Waste; and, (iv) fruit waste, grain waste, dairy waste, meat, and fish waste.

#### 1.24 FRANCHISE FEE

'Franchise Fee' means the fee paid by Contractor to City pursuant to Chapter 5.44.090 of the La Habra Municipal Code for the privilege to hold the rights granted by this Agreement.

#### 1.25 GREEN WASTE

'Green Waste' means leaves, grass clippings, brush and branches generated from landscapes or gardens at any premises, and incidental pieces of scrap lumber no longer than twenty-four inches (24"), separated from other solid waste. "Green waste" includes Christmas trees but does not include stumps or branches exceeding four inches (4") in diameter or four feet (4') in length.

#### 1.26 GREEN WASTE CONTAINERS

'Green Waste Containers' means containers provided by Contractor for the temporary accumulation of green waste.

#### 1.27 GROSS RECEIPTS

'Gross Receipts' means any and all monies, fees, charges, consideration, and revenue collected or received by or paid to Contractor, in connection with, arising from, or in any way attributable to the Solid Waste Handling Services carried out by or on behalf of Contractor pursuant to this Agreement. Gross Receipts includes, without limitation, monthly Customer charges for Collection of Solid Waste, without subtracting disposal fees, Franchise Fees, or any fees imposed on Contractor and collected pursuant to this Agreement.

#### 1.28 HAZARDOUS SUBSTANCE

"Hazardous Substance" means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Waste", "toxic waste", "pollutants" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, 25316, 25501 and 25501.1; (vi) the Clean Air Act, 42 USC §7901 et seq.; and (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder

to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state or local Environmental Laws currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

#### 1.29 HAZARDOUS WASTE

'Hazardous Waste' means all substances defined as Hazardous Waste, Acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 *et seq.*), all future amendments thereto, and all rules and regulations promulgated there under.

#### 1.30 HOUSEHOLD HAZARDOUS WASTE

'Household Hazardous Waste' means Hazardous Waste generated at Single-family and Multi-family Residential Premises.

#### 1.31 LOW-LEVEL RADIOACTIVE WASTE

'Low-level Radioactive Waste' means regulated radioactive material that meets all of the following requirements:

(1) The waste is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in Section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014(e)(2))).

(2) The waste is not uranium mining or mill tailings.

(3) The waste is not any waste for which the federal government is responsible pursuant to subdivision (b) of Section 3 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Sec. 2021c(b)).

(4) The waste is not an alpha emitting transuranic nuclide with a half-life greater than five years and with a concentration greater than 100 nanocuries per gram, or Plutonium-241 with a concentration greater than 3,500 nanocuries per gram, or Curium-242 with a concentration greater than 20,000 nanocuries per gram.

### 1.32 MATERIAL RECOVERY FACILITY

'Material Recovery Facility' means a facility licensed or permitted in accordance with the Act which separates secondary materials, such as mixed glass and metal containers and processes them for sale to end users.

### 1.33 MEDICAL WASTE

'Medical waste' means any biohazardous waste or sharps waste that is composed of, generated or produced as a result of any of the following actions:

- (1) Diagnosis, treatment, or immunization of human beings or animals.
- (2) Medical research involving the diagnosis, treatment or immunization of human beings or animals.
- (3) The production or testing of medicinal preparations made from living organisms and their products, including, but not limited to, serums, vaccines, antigens, and antitoxins.
- (4) The accumulation of properly contained home-generated sharps waste that is brought to a point of consolidation approved by the enforcement agency pursuant to Section 117904 or authorized pursuant to Section 118147.
- (5) Removal of a regulated waste from a trauma scene by a trauma scene waste management practitioner.

Medical Waste that has been properly treated or autoclaved and that is not otherwise hazardous shall thereafter be considered Solid Waste.

### 1.34 MULCH

'Mulch' means a material used for landscaping, soil amendment or erosion control that results from the mechanical breakdown (chipping and/or grinding) of materials, including, but not limited to, Green Waste, yard trimmings and wood byproducts.

### 1.35 MULTI-FAMILY RESIDENTIAL PREMISES

'Multi-family Residential Premises' means Premises within the City that include detached or attached residential units, of three units or more, including apartments, condominiums and town homes. Most Multi-family Residential Premises receive Bin Service, however, some Multi-family Residential Premises with curbside access may receive Cart Collection Service.

**1.36 ORGANIC WASTE**

"Organic Waste" or "Organics" shall mean food waste, green waste, landscape and pruning waste, nonhazardous wood waste and soiled paper waste that is mixed in with food waste.

**1.37 OVERLOAD**

"Overload" shall mean any solid waste in excess of the capacity of a container or in excess of the amount corresponding to the service classification to which a customer subscribes, as applicable.

**1.38 PERSON**

'Person' means any individual, firm, association, organization, partnership, corporation, business trust, or joint venture.

**1.39 PREMISES**

'Premises' means a tract or lot of land within the City where Solid Waste is generated or accumulated

**1.40 RECYCLABLE MATERIAL**

'Recyclable Material' means recyclable items that have been source-separated before having been discarded into the residential solid waste stream. "Recyclable Material" is a part of the residential solid waste stream, which can be reused or processed into a form suitable for reuse through reprocessing or remanufacture, consistent with the requirements of the Act. As of the date of execution of this Agreement, recyclable materials includes the following items in addition to any that the Contractor may add from time to time with the written permission of the City Manager:

1. Aluminum cans;
2. Glass jars and bottles;
3. Steel, bi-metal and tin cans;
4. Plastic soda pop bottles and other Type #1 containers (PET—polyethylene terephthalate);
5. Plastic milk and water jugs and other Type #2 containers (HDPE—high density polyethylene);
6. Type #3 plastic containers (V— polyvinyl chloride);
7. Type #4 plastic containers (LDPE—low density polyethylene);
8. Type #5 plastic containers (PP— polypropylene);
9. Juice boxes and milk cartons (aseptic packaging)
10. Newspapers;

11. Mixed paper (e.g., ledger, computer, junk mail, magazines, paperback books, envelopes, paper shopping bags and non-metallic wrapping paper);
12. Corrugated cardboard;

The foregoing list may be modified in writing to add additional recyclables as markets develop. Contractor shall collect all of the foregoing, and process and market such of the foregoing items as Contractor determines are feasible to market for recycling.

**1.41 RECYCLED**

'Recycled' means the act of having processed recyclable solid waste into a form suitable for reuse and having marketed those processed materials for a use consistent with the requirements of the Act. The act of marketing does not require that revenue be generated from the processed materials.

**1.42 REFUSE**

'Refuse' means putrescible and non-putrescible Solid Waste.

**1.43 ROLLOFF BOX**

'Rolloff Box' means a Container with a capacity from 10 to 40 cubic yards, which is typically pulled onto a rolloff vehicle used to transport Solid Waste.

**1.44 ROLLOFF BOX COLLECTION SERVICE**

'Rolloff Box Collection Service' means providing Solid Waste Handling Service using Rolloff Boxes.

**1.45 SANITATION FEE**

'Sanitation Fee' means the fee set by the City pursuant to Section 8.04.125 of the La Habra Municipal Code.

**1.46 SCAVENGING**

'Scavenging' means the unauthorized removal of recyclable solid waste. Scavenging is prohibited by Public Resources Code § 41950.

**1.47 SHARPS WASTE**

'Sharps Waste' means waste generated by a household that includes a hypodermic needle, syringe, or lancet.

**1.48 STINGER SERVICE**

'Stinger Service' means using a satellite vehicle with forks to pre-position a Bin such that the Bin is easier to access by the Collection vehicle, and then returning the Bin to its original location after it has been emptied by the Collection vehicle.

**1.49 SINGLE-FAMILY RESIDENTIAL PREMISES**

'Single-family Residential Premises' means all Premises within the City that include detached or attached residential units, of two units or less, including homes, condominiums, and town homes. Most Single Family Residential Premises receive Cart Collection Service, however, some Single Family Residential Premises with large lots may receive Bin Service.

**1.50 SOLID WASTE**

'Solid Waste' means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, Refuse, paper, rubbish, ashes, industrial wastes, Construction and Demolition Debris, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. 'Solid Waste' includes Recyclable Materials, Green Waste, Construction and Demolition Debris, and Bulky Items. Solid Waste does not include Hazardous Waste, Low-level Radioactive Waste, and Medical Waste.

**1.51 SOLID WASTE FACILITY**

'Solid Waste Facility' means a solid waste transfer or processing station, a composting facility, a gasification facility, a transformation facility, or a disposal facility.

**1.52 SOLID WASTE HANDLING SERVICE**

'Solid Waste Handling Service' means the collection, transportation, storage, transfer or processing of Solid Waste.

### 1.53 WASTE MANAGEMENT PLAN

'Waste Management Plan' means an application packet approved by the Director for the purpose of reviewing the compliance of Covered Projects according to the City's Construction and Demolition Ordinance (Chapter 15.74 of the La Habra City Code).

## **Section 2 GRANT OF RIGHT AND PRIVILEGE TO COLLECT SOLID WASTE**

### **2.1 BINDING AGREEMENT.**

In consideration of the mutual promises contained herein, City and Contractor agree to be bound by and comply with all of the requirements of this Agreement.

### **2.2 GRANT OF RIGHTS; EXCLUSIONS**

This Agreement grants to Contractor for the Term specified in Section 5.3 of this Agreement during which collection services are to be provided, the exclusive right and privilege to collect, transport, process, recycle, compost, retain and dispose of all Solid Waste, as defined in this Agreement, produced, generated and/or accumulated within the City, except as otherwise provided below. Service to all Single-family Residential, Multi-family Residential and Commercial Premises is covered by this Agreement. The collection and disposal of Construction and Demolition Debris and/or debris from Single-family Residential Premises, using temporary CUB (Clean-up Bin) bins and roll off boxes, is within the scope of this Agreement.

### **2.3 EXCEPTIONS TO EXCLUSIVITY**

Notwithstanding any provision to the contrary contained herein, the exclusive franchise, right and privilege to provide Solid Waste Handling Services at Premises within City granted to Contractor by this Agreement specifically excludes the following services, which services may be provided by Persons other than Contractor and which may be the subject of other permits, licenses, franchises or agreements issued or entered by City:

- a) The sale or donation of source-separated Recyclable Material by the Waste Generator to any Person or entity other than Contractor; provided, however, to the extent permitted by law, if the Generator is required to pay monetary or non-monetary consideration for the Collection, transportation, transfer, or processing of Recyclable Material, the fact that the Generator receives a reduction or discount in price (or in other terms of the consideration the Generator is required to pay) shall not be considered a sale or donation;
- b) Solid Waste, including Recyclable Materials and Green Waste, which is removed from any Premises by the Waste Generator, and which is transported personally by such Generator (or by his or her full-time employees) to a processing or Disposal Facility in a manner consistent with all applicable laws and regulations;

- c) Green Waste removed from a Premises by a gardening, landscaping, or tree trimming Contractor, utilizing its own equipment, as an incidental part of a total service offered by that Contractor rather than as a hauling service;
- d) The Collection, transfer, transport, Recycling, processing, and disposal of animal remains, fats, oils, or grease from slaughterhouses, butcher shops, or restaurants for rendering into other useful products and materials;
- e) The Collection, transfer, transport, Recycling, processing, and disposal of by-products of sewage treatment, including sludge, sludge ash, grit and screenings;
- f) The Collection, transfer, transport, Recycling, processing, and disposal of Hazardous Substances, Hazardous Waste, Household Hazardous Waste and radioactive waste regardless of its source;
- g) Construction and Demolition Debris which is removed by a duly-licensed construction or demolition company as part of a total service offered by said licensed company and using dump trucks to collect and transport the material; if such service is provided by Contractor using dump trucks, that service shall not be part of this Agreement and not be subject to Franchise Fees or any other City fees assessed under this Agreement;
- h) The Collection, transfer, transport, Recycling, processing, and Disposal of Solid Waste by City through City officers or employees in the normal course of their City employment; and,
- i) Solid Waste Handling Services for governmental agencies other than City, which may have facilities in City, but over which City has no jurisdiction in connection with the regulation of Solid Waste.

#### 2.4 ENFORCEMENT OF EXCLUSIVITY

Contractor shall be responsible for enforcing the exclusivity of this Agreement. City shall reasonably assist Contractor in its efforts to enforce the exclusivity herein. In addition, City shall adopt such ordinances or other regulations as it deems to be necessary or desirable to protect the exclusive rights granted herein. City shall have the right, but not the obligation, to enforce the exclusivity herein, including by instituting appropriate legal proceedings, and/or to request that Contractor do so. Contractor shall have an affirmative obligation to enforce such exclusivity provisions when requested to do so by City. Contractor shall reimburse City for its reasonable legal costs, extraordinary

administrative costs (including staff time), or other expenses incurred in connection with City's actions to either enforce the exclusivity herein, or to assist Contractor in doing so.

**2.5 SALE OR GIFT OF RECYCLABLE MATERIALS**

This Agreement shall not be construed to prohibit any person from selling recyclable materials or giving recyclable materials away to persons or entities other than Contractor.

**2.6 ANNEXATION**

Territory that is annexed into the City boundaries shall be added to the area covered by this Agreement subject to the provisions of California Public Resource Code Section 49520.

### Section 3 REPRESENTATIONS AND WARRANTIES

Contractor hereby covenants, represents, and warrants the following to City for the purpose of inducing City to enter into this Agreement, all of which shall be true as of the Effective Date of this Agreement:

1. Contractor validly exists as a corporation under the laws of the State of California.
2. Neither the execution of this Agreement nor the delivery by Contractor of services nor the performance by Contractor of its obligations hereunder: (1) conflicts with, violates or results in a breach of any applicable law; (2) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, agreement (including, without limitation, the certificate of incorporation of Contractor) or instrument to which Contractor is a party or by which Contractor or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument; or (3) will result in the creation or imposition of any encumbrance of any nature whatsoever upon any of the properties or assets of Contractor.
3. There is no action, suit or other proceeding as of the date of this Agreement, at law or in equity, or to the best of Contractor's knowledge, any investigation, before or by any court or governmental authority, pending or threatened against Contractor which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the validity or enforceability of this Agreement or any such agreement or instrument entered into by Contractor in connection with the transactions contemplated hereby, or which could materially and adversely affect the ability of Contractor to perform its obligations hereunder or which would have a material adverse effect on the financial condition of Contractor.
4. Contractor has no knowledge of any applicable law in effect as of the date of this Agreement that would prohibit the performance by Contractor of this Agreement and the transactions contemplated hereby.
5. Contractor has made an independent investigation, satisfactory to it, of the conditions and circumstances surrounding this Agreement and the work to be performed by it, and is satisfied that those conditions and circumstances will not impair its ability to perform the work and provide the Collection services required by this Agreement.

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

#### Section 4 ACCEPTANCE AND WAIVER

Contractor agrees to be bound by and comply with all the requirements of this Agreement. Contractor waives Contractor's right to change the terms of this Agreement under Federal, State, or local law, or administrative regulation. Contractor waives any right or claim to serve the City or any part of the City under any prior grant of franchise, contract, license, or permit issued or granted by any governmental entity including any right under Section 49520 of the Public Resources Code. Additionally, by and upon the execution of this Agreement, Contractor agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations under those agreements (excepting, however, the right to compensation for services provided at the rates approved by City as of the Effective Date); provided, however, nothing contained in this provision is intended to or shall relieve Contractor from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to environmental laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

## **Section 5 EFFECTIVE DATE AND TERM**

### **5.1 CONDITIONS TO EFFECTIVENESS OF AGREEMENT**

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

#### **5.1.1. Accuracy of Representation**

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

#### **5.1.2. Absence of Litigation**

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

#### **5.1.3. Furnishing of Insurance, Bond, and Letter of Credit**

Contractor shall have furnished evidence of the insurance and surety required by Section 19 and Section 21 herein.

#### **5.1.4. Effectiveness of City Council Action**

City Council's Ordinance or Resolution approving this Agreement shall have become effective pursuant to California law.

### **5.2 EFFECTIVE DATE**

The 'Effective Date' of this Agreement shall be the date on which the ordinance granting the franchise and this Agreement becomes effective. Upon the commencement of the Term as set forth in Section 5.3 herein, the existing Solid Waste Agreement entered into with Waste Management on April 1, 2010 and transferred to CR&R Incorporated on October 15, 2015, and extended through March 31, 2019 (the "Prior Agreement") shall terminate and be superseded by this Agreement, except as to any provisions of the Prior Agreement which is intended to survive the termination of the Prior Agreement.

### 5.3 TERM

Contractor shall provide Solid Waste Handling Services and Disposal Services in accordance with this Agreement beginning January 16, 2019 through midnight on June 30, 2025 (the "Term"), unless this Agreement is terminated sooner according to Section 23 of this Agreement.

### 5.4 CITY'S OPTION TO EXTEND TERM

City shall have the sole option to extend the initial Term for three (3) additional two-year periods. The first two-year period shall be from July 1, 2025 through June 30, 2027; the second two-year period shall be from July 1, 2027 through June 30, 2029; and the third two-year period shall be from July 1, 2029 through June 30, 2031. If City elects to extend the Term, City shall notify Contractor in writing no later than nine (9) months prior to the end of the then existing Term. If City does not notify Contractor nine (9) months prior to the end of the then existing Term, the City shall waive its option to further extend the Term.

## **Section 6 FRANCHISED SERVICES**

### **6.1 SOLID WASTE SERVICES – GENERAL**

To protect the public health and safety, Contractor shall provide all labor, equipment, material, supplies, supervision and all other items necessary for the collection of all Solid Waste generated or accumulated within the City from Single-family Residential, Multi-family Residential, and Commercial Premises covered by this Agreement not less often than once per week. The services provided by Contractor under this Agreement shall be performed in a thorough and professional manner so that all Customers are provided at all times with reliable, courteous and high-quality Solid Waste Handling Services.

### **6.2 SINGLE-FAMILY SERVICES**

#### **6.2.1. Refuse Collection**

Except as provided in Section 6.2.11, Contractor shall Collect Refuse from all Single-family Premises in the City using Cart Collection Service. Contractor shall provide each Customer at all Single-family Residential Premises in the City with one (1) ninety-six (96) gallon Refuse Cart per Dwelling Unit. Contractor shall collect all Refuse properly placed out for collection by Single-family Customers not less than once per week using automated collection vehicles. A Cart shall be considered properly placed out for Collection if it is feasibly accessible by Contractor's automated Collection vehicles. If a Customer and Contractor cannot agree upon the collection location, City may make the final determination of the Collection location.

Upon request by Customer, Contractor shall provide Customer with one or more smaller Refuse Carts each with a capacity of sixty-four (64) gallons instead of the ninety-six (96) gallon Refuse Cart. Upon request by Customer, Contractor shall provide additional ninety-six (96) or sixty-four (64) gallon Refuse Carts. Contractor shall be compensated by the City based on each Customer's size and number of Refuse Carts according to the rates in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

It is the intent of the City and the Contractor to provide Customers with the highest level of customer satisfaction while at the same time enabling Contractor to operate efficiently. Therefore, City and Contractor agree that Customers shall be instructed to place all Refuse inside Refuse Carts such that Contractor's drivers will not be required to routinely disembark the Collection vehicle. However, in the event that a Customer occasionally places Refuse adjacent to Carts, Contractor shall also collect that Refuse. If a Customer routinely places Refuse outside the Cart for Collection, Contractor shall work with the

Customer to determine if the Customer is in need of additional Refuse Carts. The City Manager is authorized to require Contractor to deliver additional Refuse Carts to any such Customers or to require such other action of Contractor as is reasonably necessary to ensure that Customers receive high quality service.

### **6.2.2. Recyclables Collection**

Contractor shall Collect Recyclables from all Single-family Premises in the City using Cart Collection Service. Contractor shall collect Recyclables on the same day as Customer's Refuse Cart is collected. Contractor shall provide each Customer at all Single-family Residential Premises in the City with one (1) ninety-six (96) gallon Recycling Cart per Dwelling Unit. Contractor shall collect all Recyclables properly placed out for collection by Single-family Residential Customers not less than once per week using automated collection vehicles. A Cart shall be considered properly placed out for collection if it is feasibly accessible by Contractor's automated collection vehicles. If Customer and Contractor cannot agree upon the collection location, City may make the final determination of the collection location. Contractor shall provide Recyclable collection service to Single-family Residential Customers at no additional charge to City or to Customers.

Upon request by Customer, Contractor shall provide an unlimited number of additional ninety-six (96) gallon Recycling Carts per Dwelling Unit at no charge. If a customer has significant access or storage constraints such that the use of the larger ninety-six (96) gallon Recyclable Cart(s) is infeasible, Contractor shall instead provide any Single-family Residential Customer with up to two (2) smaller Recycling Carts each with a capacity of sixty-four (64) gallons at no additional charge to City or to Customer.

### **6.2.3. Green Waste Collection**

Contractor shall collect Green Waste from all Single-family Residential Premises in the City using Cart Collection Service. Contractor shall collect Green Waste on the same day as Customer's Refuse Cart is collected. Contractor shall provide each Customer at all Single-family Residential Premises in the City with one (1) ninety-six (96) gallon Green Waste Cart per Dwelling Unit. Contractor shall collect all Green Waste properly placed out for collection by Single-family Customers not less than once per week using automated collection vehicles. A Cart shall be considered properly placed out for collection if it is feasibly accessible by Contractor's automated collection vehicles. If Customer and Contractor cannot agree upon the collection location, City may make the final determination of the collection location. Contractor shall provide Green Waste

collection service to Single-family Residential Customers at no additional charge to City or to Customers.

Upon request by Customer, Contractor shall provide up to two (2) additional ninety-six (96) gallon Green Waste Carts per Dwelling Unit at no charge. If a customer has significant access or storage constraints such that the use of the larger ninety-six (96) gallon Green Waste Cart(s) is infeasible, Contractor shall instead provide any Single-family Residential Customer with up to two (2) smaller Green Waste Carts each with a capacity of sixty-four (64) gallons at no additional charge to City or to Customer. If the Customer requests additional Green Waste Carts that exceed the two (2) additional carts, the City shall compensate Contractor for those additional Green Waste Carts according to the rates in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

#### **6.2.4. Single-family Organics Collection Program**

With the implementation of AB 1594, and upon direction by the City Council, Contractor shall implement a Single-family Organics Collection Program. The Single-family Organics Collection Program shall supplant Single-family Green Waste Collection. The Single-family Collection Program shall consist of Contractor collecting Organics from all Single-family Residential Premises in the City using Cart Collection Service. Contractor shall collect Organics on the same day as Customer's Refuse Cart is collected. Contractor shall continue to provide each Customer at all Single-family Residential Premises in the City with one (1) ninety-six (96) gallon Green Waste/Organics Cart per Dwelling Unit. Contractor shall collect all Organics properly placed out for collection by Single-family Customers not less than once per week using automated collection vehicles. A Cart shall be considered properly placed out for collection if it is feasibly accessible by Contractor's automated collection vehicles. If Customer and Contractor cannot agree upon the collection location, City may make the final determination of the collection location.

Contractor shall transport all Organics collected in the City to the City of Perris for processing at Contractor's anaerobic digestion facility. Contractor shall not deliver any Organics collected from Single-family Premises to any facility to be landfilled or used as Alternative Daily Cover.

Upon request by Customer, Contractor shall continue to provide up to two (2) additional ninety-six (96) gallon Green Waste/Organics Carts per Dwelling Unit at no charge. If a customer has significant access or storage constraints such that the use of the larger ninety-six (96) gallon Green Waste Cart(s) is infeasible, Contractor shall instead provide any Single-family Residential Customer with up to two (2) smaller Green Waste/Organics

Carts each with a capacity of sixty-four (64) gallons at no additional charge to City or to Customer. If the Customer requests additional Green Waste Carts that exceed the two (2) additional carts, the City shall compensate Contractor for those additional Green Waste Carts according to the rates in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

Single-family Organics Collection shall also include applicable public outreach as approved by the City to encourage Customers to include all types of Organics within the existing Green Waste/Organics Carts. Public outreach shall include, but not be limited to, educational stickers applied to the lids of Green Waste/Organics Carts, Cart tags, and educational fliers. All new or replaced Green Waste/Organics Carts shall describe the Organic materials allowed to be placed in the Green Waste/Organics Carts.

Upon the implementation of the Single-family Residential Organics Collection Program, Contractor's compensation shall be increased to include the organics processing charge in EXHIBIT A. Whether or not the City directs Contractor to implement the Single-family Organics Collection Program, the organics processing charge shown in EXHIBIT A shall be adjusted concurrently with the other rates in EXHIBIT A pursuant to Section 14.5 of this Agreement. Upon the implementation of the Single-family Residential Organics Collection Program, the then existing monthly rate for regular service, and the then existing monthly rate for an extra greenwaste cart, shall each be increased by the then existing amount of the organics processing charge.

#### **6.2.5. Optional Premium Walk-up Service**

Upon Customer request, Contractor shall provide optional premium walk-up service to Single-family or Multi-family Customers with Cart Collection Service that elect to receive and pay for this service. Premium walk-up service shall entail the Contractor's driver disembarking from the collection vehicle, walking up to the Customer's residence and moving the Carts to the Collection vehicle, emptying the Carts, and returning them to their original storage location. Contractor shall charge Customers an additional fee on top of the regular rate for this service according to the rate schedule shown in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

Contractor shall provide optional premium walk-up service at no charge to City or Customer if all persons over the age of thirteen (13) residing at the Premises have a disability that prevents them from setting their Carts at the curb for Collection. Contractor shall administer an objective procedure for determining whether a Customer qualifies for premium walk-up service at no charge. If a Customer and Contractor cannot agree upon whether the Customer is entitled to premium walk-up service at no charge,

the City shall make the final determination. The cost for the services provided at no charge herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

#### **6.2.6. Optional Special Truck Service**

Contractor shall provide optional special truck service to Single-family or Multi-family Customers with Cart Collection Service upon request. Optional special truck service shall entail the Contractor using a smaller collection vehicle to service cart customers. Contractor shall administer an objective procedure for determining whether a Customer qualifies for the special truck service. A Customer may be charged only if all Customers on such street agree to sign up and pay for the service. Contractor shall charge Customers for this service according to the rate schedule shown in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

Contractor shall provide optional special truck service to Single-family or Multi-family Customers at no charge if such customer's street is not accessible by a regular sized collection vehicle. Contractor shall administer an objective procedure for determining whether a Customer qualifies for optional special truck service at no charge. If a Customer and Contractor cannot agree upon whether the Customer is entitled to optional special truck service at no charge, the City shall make the final determination. The cost for the services provided at no charge herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

#### **6.2.7. Low-Income Senior Citizen Discount**

Contractor shall offer a low-income senior citizen discount available to qualifying customers age 65 and older who also qualify for Southern California Edison's low-income discount (Care Program). Customers will have to show their qualifying utility bill or related information. The discount will be available only for customers with Single and Multi-family Residential Cart Service and will be 10% off the standard service rate set forth in EXHIBIT A. The low-income senior citizen discount service level shall be a 64-gallon residue Cart, a 64-gallon Recycling Cart and a 64-gallon Green Waste Cart. The cost for the services provided at discount herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

### **6.2.8. Bulky Items Collection**

On an as-needed, on-call basis, the Contractor shall provide up to four (4) pickups per calendar year of Bulky Items from each Single Family and Multi Family Cart Customers. Upon receiving a request from Customer two (2) days in advance, Contractor shall collect Bulky Items on the Customer's regular weekly collection day at no extra charge. Each Bulky Items Collection will be limited to the greater of four (4) large household items or, twenty (20) plastic trash bags or, three (3) cubic yards by volume per collection event (i.e., per pickup). Contractor shall not be required to remove any items that may not be safely handled by two persons. Contractor shall comply with all applicable regulations governing the recovery of ozone depleting refrigerants during the handling and Disposal of refrigerators, air conditioning units or refrigeration equipment.

In the event a question arises as to whether a specific item or category of items meets the definition of Bulky Items, City shall determine whether the item(s) are considered Bulky Items, and that determination shall be final and binding on the Contractor. For Collections of Bulky Items in excess of maximum quantity set forth above, Contractor shall charge Customer according to the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

### **6.2.9. CUB (Clean-up Bin) Bin Service**

Upon request by Customer, Contractor will provide 'CUB Bin Service' to Single-family Customers. 'CUB Bin Service' means: (1) delivering a three-yard Bin to the curb in front of a Single-family Residential Premises, (2) allowing the Customer to keep and fill the Bin for up to seven (7) calendar days, (3), Collecting the Solid Waste from that Bin (or exchanging the full Bin for an empty Bin), and (4) removing the Bin after the final collection.

Contractor shall perform CUB Bin Service (i.e., deliveries, services, removals) within forty-eight (48) hours of request by Customer. Contractor shall provide CUB Bin Service Monday through Saturday. Contractor shall provide CUB Bin Service at rates according to the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement. In the event that a Customer has a Bin for more than seven (7) days, Contractor may charge the daily Bin rental rate according to the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

#### **6.2.10. Christmas Trees**

Contractor shall collect all Christmas trees from Single-family Premises, which are properly placed for collection at curbside during the period beginning on the first Collection day after December 25th and ending at 5:00 p.m. on the third Saturday in January. Christmas trees placed for collection must be cut into lengths no longer than six (6) feet, be free of ornaments, garlands, tinsel and flocking, and the stands must be removed. Contractor will divert all Christmas trees from being landfilled.

#### **6.2.11. Single-family Bin Service**

Upon request by any Single-family Residential Customer, Contractor shall provide Bin Collection Service to those Customers at the same monthly rates charged to Commercial Bin Customers in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement. Single-family Customers requesting Bin Service must have adequate space on their Premises and off the City's right of way to properly place Bins for Collection. In addition to Bin Collection Service, and upon request by Customer, Contractor shall also provide these Customers with Cart Collection Service of Recyclables and Green Waste at no additional charge.

#### **6.2.12. Plastic Bag Recycling**

Contractor shall continue the existing plastic bag recycling program that enables residents to recycle grocery bags and other plastic shopping bags. Contractor shall provide this program at no additional charge to City or Customers.

#### **6.2.13. Publicizing of Recycling Locations – Single Family Customers**

The City agrees to publicize on the City's website, alternate sites locally where residents can recycle cell phones and printer cartridges.

### **6.3 MULTI-FAMILY AND COMMERCIAL SERVICES**

#### **6.3.1. Multi-family Cart Collection Service**

Contractor shall collect Refuse, Recyclables and Green Waste using Cart Collection Service from those Multi-family Premises with appropriate and feasible curbside access. Contractor shall provide these Customers with the same service provided to Single-family Customers as set forth in Section 6.2 herein. If a Customer and Contractor cannot agree upon whether a Multi-family Premises has appropriate and feasible access, the City shall make the final determination. Contractor shall be reimbursed based on actual collections by the City at the same rates for Single-family Residential Cart Collection

Service based on the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

### **6.3.2. Multi-family and Commercial Bin Collection Service - Refuse**

Contractor shall provide Bin Collection Service to collect Refuse from all Multi-family and Commercial Premises that do not receive either Cart or Rolloff Box Collection Service. Contractor shall collect Refuse from Multi-family and Commercial Bin Collection Service Customers not less than once per week. Contractor shall collect Refuse from Bins from the location upon each Customer's property designated for Bin storage. Contractor shall replace empty Bins to their original location with gates or doors secured after collection is completed.

Contractor shall provide the size and quantity of Bins, and the number of weekly pickups as requested by Customer, or as required to maintain public health and safety. If Contractor and Customer cannot agree upon the location of Bins, or on the appropriate size and number of Bins, or on the number of weekly pickups, City shall determine the most appropriate service level. Contractor shall bill the Customer for Commercial Bin Collection Service based on each Customer's size and number of Bins, and number of weekly pickups according to the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

### **6.3.3. Multi-family and Commercial Bin Collection Service - Recyclables**

Upon request by Customer, Contractor shall collect Recyclables using Bin or Cart Collection Services from Multi-family and Commercial Premises. For Multi-family and Commercial Customers that elect to receive Recyclables Collection Service, Contractor shall Collect Recyclables not less than once per week. Contractor shall Collect Recyclables from Bins or Carts from the location upon each Customer's property designated for Bin or Cart storage. Contractor shall replace empty Bins to their original location with gates or doors secured after collection is completed.

Contractor shall provide the size and quantity of Bins or Carts, and the number of weekly pickups as requested by Customer. Contractor shall provide this service at rates that are 50% of the rates for the same level of service (size and number of Bins, and frequency of service) for Commercial Refuse Collection Service.

#### **6.3.4. Commercial Cart Service**

For Commercial Premises that do not have space for, or do not generate enough waste to require the use of Bins for collection, Contractor shall provide Cart Collection Service. Contractor shall provide up to two (2) Refuse Carts and Collect all Refuse at least once per week. In addition to Bin Service, and upon request by Customer, Contractor shall also provide Commercial Cart Customers with Cart Collection Service for Recyclables and Green Waste at no additional charge. Contractor shall bill Commercial Cart Customers a monthly rate according to the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

#### **6.3.5. Commercial Food Waste Collection - Bin and Cart Service**

Within six (6) months of the beginning of the Term of this Agreement, Contractor shall implement a Commercial Food Waste Collection Program. The Commercial Food Waste Collection Program shall consist of Contractor collecting Food Waste from Commercial Premises in the City using Bin and Cart Collection Service. Contractor shall collect Food Waste from those Commercial Customers that elect to subscribe for this service.

The Commercial Food Waste Collection Program shall be conducted in accordance with the requirements of AB 341 (Mandatory Commercial Recycling) and AB 1826 (Organics), and all Applicable Law. Contractor shall use its best efforts to assist Commercial Customers that meet the criteria of AB 341 and AB 1826 to comply with State law. This assistance shall include, but not be limited to, Contractor conducting waste audits of all Commercial Premises to determine the composition of their waste stream.

For Customers that subscribe to Commercial Food Waste Collection Service, Contractor shall collect Food Waste not less than once per week. Contractor shall collect Food Waste from Carts or Bins from the location upon each Customer's property designated for Cart or Bin storage. Contractor shall replace empty Carts or Bins to their original location with gates or doors secured after collection is completed.

Contractor shall provide the size and quantity of Cart or Bins, and the number of weekly pickups as requested by Customer, or as required to maintain public health and safety. If Contractor and Customer cannot agree upon the location of Cart or Bins, or on the appropriate size and number of Cart or Bins, or on the number of weekly pickups, City shall determine the most appropriate service level.

Contractor shall transport all Food Waste collected in the City to the City of Perris for processing at Contractor's anaerobic digestion facility. Contractor shall not deliver any

Food Waste collected from Commercial Premises to any facility to be landfilled or used as Alternative Daily Cover.

Upon the implementation of the Commercial Food Waste Collection Program, Contractor shall be entitled to charge the rates in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

#### **6.3.6. Multi-family Green Waste Collection – Bin and Cart Service**

Within six (6) months of the beginning of the Term of this Agreement, Contractor shall implement a Multi-family Green Waste Collection Program. The Multi-family Green Waste Collection Program shall consist of Contractor collecting Green Waste from Multi-family Premises in the City using Bin and Cart Collection Service. Contractor shall collect Green Waste from those Multi-family Customers that elect to subscribe for this service.

The Multi-family Green Waste Collection Program shall be conducted in accordance with the requirements of AB 341 (Mandatory Commercial Recycling) and AB 1826 (Organics), and all Applicable Law. Contractor shall use its best efforts to assist Multi-family Customers that meet the criteria of AB 341 and AB 1826 to comply with State law. This assistance shall include but not be limited to, Contractor conducting waste audits of all Multi-family Premises to determine the composition of their waste stream.

For Customers that subscribe to Multi-family Green Waste Collection Service, Contractor shall collect Green Waste not less than once per week. Contractor shall collect Green Waste from Carts or Bins from the location upon each Customer's property designated for Cart or Bin storage. Contractor shall replace empty Carts or Bins to their original location with gates or doors secured after collection is completed.

Contractor shall provide the size and quantity of Cart or Bins, and the number of weekly pickups as requested by Customer, or as required to maintain public health and safety. If Contractor and Customer cannot agree upon the location of Cart or Bins, or on the appropriate size and number of Cart or Bins, or on the number of weekly pickups, City shall determine the most appropriate service level.

Contractor shall transport all Green Waste collected in the City to the City of Perris for processing at Contractor's anaerobic digestion facility. Contractor shall not deliver any Green Waste collected from Commercial Premises to any facility to be landfilled or used as Alternative Daily Cover.

Upon the implementation of the Multi-family Green Waste Collection Program, Contractor shall be entitled to charge the rates in EXHIBIT A. The rates in EXHIBIT A shall be adjusted annually pursuant to Section 14.5 of this Agreement.

#### **6.3.7. Locking Bins**

Upon request by Customer, Contractor shall provide Locking Bin Service. Locking Bin Service includes providing a Bin with lockable lids and a lock, and unlocking and re-locking the Bin each time it is serviced. Contractor shall provide Locking Bin Service according to the monthly rates in the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

#### **6.3.8. Push-out Service**

For Bin Collection Customers that require the Bin to be manually pushed a distance more than fifteen (15) feet, the Contractor may charge for Push-out Service. Push-out Service entails the driver dismounting the Collection vehicle, manually moving the Bin more than fifteen (15) feet, re-mounting the Collection vehicle to empty the Bin, and then moving the Bin to its original location. If the Contractor and the Customer cannot agree on whether Push-out Service is needed, City shall make the final determination. Contractor shall provide Push-out Service according to the monthly rates in the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

#### **6.3.9. Stinger Service**

Upon request by a Customer that receives Bin Collection Service, Contractor shall provide Stinger Service. Contractor may also provide Stinger Service on its own initiative if Contractor believes that the collection vehicle cannot safely access or egress the Bin storage location. If the Contractor and the Customer cannot agree on whether Stinger Service is needed, City shall make the final determination. Contractor shall provide Stinger Service according to the monthly rates in the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

#### **6.3.10. Bulky Items – Commercial Cart and Bin Customers**

Contractor shall collect Bulky Items from Multi-family Bin, Commercial Cart, and Commercial Bin Customers on an on-call, as-needed basis. Contractor shall collect Bulky Items within two (2) business days of receiving request from Customer. Each Bulky Items Collection will be limited to one (1) large item per collection event (i.e., per pickup). Contractor shall not be required to remove any items that may not be safely handled by two persons. Contractor shall comply with all applicable regulations governing the recovery of

ozone depleting refrigerants during the handling and Disposal of refrigerators, air conditioning units or refrigeration equipment.

In the event a question arises as to whether a specific item or category of items meets the definition of Bulky Items, City shall determine whether the item(s) are considered Bulky Items, and that determination shall be final and binding on the Contractor. For collections of Bulky Items from Multi-family Bin, Commercial Cart or Commercial Bin Customers, Contractor shall charge Customer according to the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

#### **6.3.11. Christmas Trees – Multi-family**

Contractor shall collect all Christmas Trees from Multi-family Premises, which are properly placed for collection during the period beginning on the first collection day after December 25<sup>th</sup> and ending at 5:00 p.m. on the third Saturday in January. Christmas trees placed for collection must be cut into lengths no longer than six (6) feet, be free of ornaments, garlands, tinsel and flocking, and stands must be removed. Contractor will divert all Christmas trees from being landfilled.

#### **6.3.12. Publicizing of Recycling Locations – Multi-family and Commercial Customers**

The City agrees to publicize on the City's website, alternate sites locally where Multi-family and Commercial customers can recycle cell phones and printer cartridges.

### **6.4 COMMERCIAL SERVICES - ROLLOFF BOX COLLECTION**

#### **6.4.1. Rolloff Box Collection Service - Refuse**

Upon request by Customer, Contractor shall collect Refuse from Commercial Premises using Rolloff Box Collection Service. Contractor shall provide open top Rolloff Boxes to Customers. Contractor shall not be required to furnish Rolloff Compactors or Rolloff Compactor Boxes to Customers. Contractor must deliver, exchange, or remove Rolloff Boxes for Customers within one (1) business day of request by Customer. Contractor shall bill Customer for Rolloff Box Collection Service based on each Customer's size of Rolloff Box and number of loads according to the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

#### **6.4.2. Rolloff Box Collection Service – C & D Debris**

Upon request by Customer, Contractor shall Collect Construction and Demolition Debris from Commercial or Residential Premises using Rolloff Box Collection Service.

Contractor shall provide open top Rolloff Boxes to Customers. Contractor shall deliver, exchange, or remove Rolloff Boxes for Customer within one (1) business day of request by Customer. Contractor shall deliver all loads of mixed Construction and Demolition Debris to a C&D processing facility for separation and recovery of this Recyclable Material. Contractor shall divert a minimum of 70% of all Construction and Demolition Debris Collected.

For all Covered Projects, Contractor shall fully cooperate with Customer in Customer's compliance with Chapter 15.78 of the La Habra City Code (e.g., by reviewing Customer's Waste Management Plan and by providing documentation, etc.). Contractor shall bill Customer for Service based on each Customer's size of Rolloff Box and number of loads according to the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

#### **6.4.3. Rolloff Box Collection Service – Source Separated Recyclables**

Upon request by Customer, Contractor shall collect source-separated Recyclables from Commercial or Residential Premises using Rolloff Box Collection Service. Contractor shall provide open top Rolloff Boxes to Customers. Contractor shall deliver, exchange, or remove Rolloff Boxes for Customer within one (1) business day of request by Customer. Contractor shall deliver all loads of source-separated Recyclables to a processing facility for recovery of this Recyclable Material. Contractor shall bill Customer for Service based on each Customer's size of Rolloff Box and number of loads according to the rate schedule in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

### **6.5 OTHER SERVICES**

#### **6.5.1. City Facilities**

Contractor shall collect and dispose of all Refuse, Recyclable Material, and Green Waste put in Containers for collection at Premises owned and/or operated by the City at no charge. Such Premises include, but are not limited to, City Hall, City offices, parks, City yard and street maintenance operations. A schedule of services currently provided to City facilities is included in EXHIBIT B. City may change the service levels and number of facilities serviced during the Term of this Agreement without any additional compensation paid to the Contractor. City shall include any such changes on a revised EXHIBIT B. Collections shall be scheduled at a time mutually agreed upon by Contractor and City. The cost for the services provided at no charge herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

### **6.5.2. City Sponsored Special Events**

Contractor shall provide Solid Waste and Recycling Collection and Disposal/processing service for City-sponsored events. Contractor shall provide Containers (Bins, Roll-off Boxes, clearly labeled Recycling Containers and cardboard waste boxes with liners) to collect all Solid Waste and Recyclables. Contractor shall provide these services at City-sponsored events at no charge to City or to Customers. The current City-sponsored events are listed in EXHIBIT C. City may replace events that are discontinued with events requiring comparable levels of Solid Waste and Recycling Collection service. The cost for the services provided at no charge herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

### **6.5.3. City Sponsored Cleanup Projects**

Contractor shall provide collection service for up to twenty-four (24) City-sponsored cleanup projects per calendar year. A 'cleanup project' shall consist of City employees and/or volunteers working to pick up Refuse from public places over a one or two-day period. For each cleanup project, Contractor shall provide one (1) 40-yard Rolloff Box, or up to four (4) each 4-yard Bins. City-sponsored cleanup projects shall be determined by the Director. Contractor shall deliver Rolloff Boxes or Bins to City-sponsored cleanup projects upon two (2) business days' notice from City. Contractor shall provide collection service to cleanup projects within one (1) business day of completion of the cleanup project.

### **6.5.4. Mulch Give-away**

Contractor shall perform two (2) mulch distribution events per year within the City for residential customers. Contractor shall provide 24 pallets of bags (estimated to be approximately 70 bags per pallet, or around 1,680 bags total) with approximately 1 cubic foot of mulch in each bag. City shall arrange for a suitable distribution location. The site plan layout, date and time of each distribution will be mutually agreed upon between the parties. Contractor shall provide this service at no additional cost to City or to Customers. The cost for the services provided at no charge herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

### **6.5.5. Bus Stop Receptacles**

Contractor shall collect and dispose of all Refuse placed in Containers at bus stops in the City listed in EXHIBIT D. Contractor shall be responsible to ensure that bus stop Containers are serviced frequently enough such that the Containers do not overflow. At a minimum, Contractor shall collect bus stop Containers at least as frequently as set forth

in EXHIBIT D. Contractor shall respond and collect Refuse from any overflowing bus stop Container within four (4) hours of being notified to do so by an employee of the City. Any request made on a working day after 2:00 pm may be responded to and collected on the following workday. City may change the service levels and number of bus stops serviced during the Term of this Agreement without any additional compensation paid to the Contractor. City shall include any such changes on a revised EXHIBIT D.

#### **6.5.6. Abandoned Items**

Contractor shall collect and dispose of all Bulky Items and Solid Waste disposed of legally or illegally in the public right-of-way. The public right-of-way shall include highways, streets, alleys, sidewalks or any other public right of way owned, operated or maintained by the City of La Habra, the County of Orange, or the State of California that are located within the boundaries of the City of La Habra. Contractor shall collect abandoned items within twenty-four (24) hours' notice from City. Contractor shall provide this service at no additional cost to City or to Customers. The cost for the services provided at no charge herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

#### **6.5.7. Street Litter Containers**

In the event that City places permanent litter containers on sidewalks in the City, Contractor shall collect Solid Waste from all public litter Containers. Public litter Containers shall be provided by City. Any liners or other miscellaneous items needed to provide service shall be furnished by Contractor. If service levels are not sufficient to ensure Containers do not become full, service levels shall be increased at no additional cost to the City. If additional litter Containers are added, Contractor shall collect Solid Waste from those Containers at no additional cost to City. The cost for the services provided at no charge herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

#### **6.5.8. Household Hazardous Waste Collection Events**

Contractor shall plan, organize and conduct two (2) Household Hazardous Waste Collection Events per calendar year. Contractor shall conduct the first event no later than June 30th, and conduct the second event no later than December 14th of each year. Contractor shall provide all personnel, Containers, equipment, supplies and material to conduct the Household Hazardous Waste Collection Events. Contractor shall accept and dispose of all Household Hazardous Waste generated in the City and delivered to the event by Single-family and Multi-family Residential Customers. City shall provide the location

for the Household Hazardous Waste Collection Events. Contractor shall provide this service at no additional cost to City or to Customers.

#### **6.5.9. Conditionally Exempt Small Quantity Generators**

Contractor shall conduct at least two Conditionally Exempt Small Quantity Generator collection events per year. In addition to accepting Hazardous Waste from City residents at the Household Hazardous Waste Collection Events, Contractor shall also accept and dispose of small quantities (one hundred kilograms or less per Customer per event) of Hazardous Waste from Conditionally Exempt Small Quantity Generators. In no event shall Contractor be required to accept any quantity of Acutely Hazardous Waste. Contractor shall provide this service at no additional cost to City or to Customers. Contractor's costs for this program shall not exceed fifty thousand dollars (\$50,000) in any Contract Year.

#### **6.5.10. Contributions to City Sponsored Special Events**

Contractor shall contribute the amount of thirty-five thousand dollars (\$35,000) per calendar year to the City of La Habra for use toward City sponsored special events. This donation shall be provided at the sole expense of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

#### **6.5.11. Annual Contribution for Code Enforcement**

Contractor shall contribute twenty thousand dollars (\$20,000.00) per calendar year to the City to offset the City's code enforcement costs. This donation shall be provided at the sole expense of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

### **6.6 SHARPS WASTE**

In addition to accepting Hazardous Waste from City residents at the Household Hazardous Waste Collection Events, Contractor shall also accept and dispose of small quantities (ten kilograms or less per Customer per event) of Sharps Waste. Contractor shall provide this service at no additional cost to City or to Customers. The cost for the services provided at no cost herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

#### **6.6.1. Community Development Review Services**

Upon City request and at no additional charge, Contractor shall review building permit applicant's plans and advise applicant regarding adequacy of Container storage space and access, particularly to accommodate the collection of Recyclable Materials. The cost for the

services provided at no charge herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

#### **6.7 HOURS OF COLLECTION; HOLIDAYS**

Contractor agrees that, in order to protect the peace and quiet of residents, its collection of solid waste shall not start before 7:00 a.m. or continue after 6:00 p.m. No collections are to occur on Sundays or the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas. If requested by Contractor, site and route-specific exceptions may be made to these limitations by the City Manager.

#### **6.8 CUSTOMER EDUCATION PROGRAM**

On an annual basis, at its own expense, Contractor shall develop and implement a Customer Education Program (CEP) for the City's integrated solid waste program. The CEP shall be subject to the approval of the Director or his or her designee. The CEP shall inform the City's residents and businesses about best environmental management practices related to solid waste, the solid waste service provided by the Contractor and the City. The CEP shall include, but not be limited to, information with respect to the Act diversion goals, bulky goods pick-ups, recycling, organics, and food waste diversion programs, and the importance of the safe disposal of household hazardous waste. Contractor will provide and distribute information in the form of fliers, cards, stickers, or other media as City reasonably determines to be most effective. Contractor may also utilize other promotional activities to achieve the goals of this Agreement, including participation in school assemblies and demonstrations, Chamber of Commerce and other local activities, parades and other civic events, as approved in writing by the Director or his or her designee. The CEP must be submitted upon execution of this Agreement, and any change in the CEP must be approved in writing by the Director.

## Section 7 COLLECTION EQUIPMENT

Contractor warrants that it shall provide an adequate number of vehicles and equipment for the collection, disposal and transportation services for which it is responsible under this Agreement. The Contractor shall abide by the Air Quality Management District ("AQMD") Rule 1193. To protect peace and quiet in residential areas the noise level generated by Contractor's vehicles using compaction mechanisms during the stationary compaction process shall not exceed a single-event noise level of seventy (70) decibels (dB)A at a distance of fifty (50) feet from the collection vehicle measured at an elevation of five (5) feet above ground level. Contractor shall submit to City, upon City's request, a certificate of vehicle noise level testing, by an independent testing entity, upon execution of this Agreement and for any collection vehicle as to which City or Contractor has received more than one complaint regarding excessive noise in any twelve-month period. Contractor warrants that it will comply with all measures and procedures promulgated by all agencies with jurisdiction over the safe, sanitary operation of all its equipment. Contractor agrees to use its best efforts to prevent damage to all streets over which its collection equipment may be operated and to obtain all required approvals for operation of its collection vehicles on all streets. Contractor agrees to maintain its refuse containers in the City of La Habra free of graffiti or "tagging." In addition, any emergency containers placed at schools and at City Hall or other City Facilities must likewise be kept free of graffiti or "tagging." Finally, Contractor shall mark all of its refuse containers in the City with conspicuous notices warning that the disposal of hazardous substances is prohibited.

## **Section 8 CITY'S ABILITY TO CONTROL FLOW OF SOLID WASTE**

### **8.1 FLOW CONTROL OPTION**

City shall have the absolute ability to choose the location for the delivery and/or Disposal of all Solid Waste (including Recyclable Material, Green Waste, Organic Waste, and or Construction and Demolition Debris) Collected pursuant to this Agreement (hereinafter City's "Flow Control Option"). Contractor expressly consents to City's ability to direct the location for Disposal of Solid Waste hereunder, and waives any and all rights to challenge City's ability to do so, including without limitation any rights under the Commerce Clause of the United States Constitution. As of the Effective Date, City shall be deemed to have exercised its Flow Control Option so as to require delivery of all Solid Waste Collected hereunder to the Orange County landfill system in a manner consistent with its obligations under the Waste Disposal Agreement (including, without limitation, its obligations related to Solid Waste that is delivered to any Material Recovery Facility, processing/transfer facility prior to being delivered to a landfill for disposal), and Contractor has agreed to handle all Solid Waste Collected hereunder in a manner consistent with City's exercise of its Flow Control Option as noted above. At any time during the Term of this Agreement, the City Manager may notify Contractor in writing that City no longer desires to exercise its Flow Control Option. In the event City so notifies Contractor of its desire to cease exercising its Flow Control Option, Contractor shall have the absolute discretion to utilize any disposal facility, transfer station, recycling facility, Material Recovery Facility, landfill, or other facility of its choosing to retain, recycle, process, and dispose of Solid Waste generated within the City, provided the use of such facility by Contractor enables it to meet all other requirements of this Agreement.

### **8.2 WASTE DISPOSAL AGREEMENT WITH THE COUNTY OF ORANGE**

Contractor expressly acknowledges its awareness of the Waste Disposal Agreement, which has been adopted and entered into by City with the County of Orange. Moreover, Contractor acknowledges that it has had an opportunity to review the Waste Disposal Agreement, and is aware of the provisions thereof that require all Solid Waste collected in the City Limits to be disposed of in the Orange County landfill system. Contractor further acknowledges that the County of Orange is an intended third party beneficiary of Contractor's obligations relating in any way to the disposal of Solid Waste pursuant to this Agreement and the Waste Disposal Agreement. Contractor hereby adopts as its obligations hereunder such provisions of the Waste Disposal Agreement that require action or inaction by it as City's Solid Waste franchisee. Contractor represents and warrants that it can and will perform its duties in connection with this Agreement in such a manner as to ensure that City does not breach the terms of the Waste Disposal Agreement as a result of Contractor's actions or inaction. In the event City advises Contractor in writing that

the Waste Disposal Agreement has been terminated, or that it no longer wishes to exercise its Flow Control Option in a manner consistent with the Waste Disposal Agreement, then Contractor's obligations pursuant to this paragraph shall be terminated.

## **Section 9 PRIVACY**

### **9.1 GENERAL**

Contractor shall strictly observe and protect the rights of privacy of Customers. Information identifying individual Customers, or the composition or contents of a Customer's Solid Waste shall not be revealed to any person, governmental unit, private agency, or company unless required by law or upon authorization of the Customer. This provision shall not be construed to preclude Contractor from preparing, participating in, or assisting in the preparation of Solid Waste characterization studies or waste stream analyses that may be required by the Act.

### **9.2 MAILING LISTS**

Contractor shall not market or distribute mailing lists with the names and addresses of Customers.

### **9.3 PRIVACY RIGHTS CUMULATIVE**

The rights accorded Customers pursuant to this Section 9 shall be in addition to any other privacy rights accorded Customers pursuant to federal or state law.

## **Section 10 SERVICE EXCEPTIONS; HAZARDOUS WASTE NOTIFICATIONS.**

### **10.1 REFUSAL OR FAILURE TO COLLECT**

When Solid Waste is not collected from any Customer, Contractor shall notify its Customer in writing, at the time collection is not made, through the use of a "tag" or otherwise, of the reasons why the collection was not made.

### **10.2 HAZARDOUS WASTE INSPECTION AND REPORTING**

Contractor reserves the right and has the duty under law to inspect Solid Waste put out for collection and to reject Solid Waste observed to be contaminated with household hazardous waste (HHW) and the right not to collect HHW put out with solid waste. Contractor shall notify all agencies with jurisdiction, if appropriate, including the California Department of Toxic Substances Control and Local Emergency Response Providers and the National Response Center of reportable quantities of HHW, found or observed in solid waste anywhere within the City. In addition to other required notifications, if Contractor observes any substances which it or its employees reasonably believe or suspect to contain HHW unlawfully disposed of or released on any City property, including storm drains, streets or other public rights of way, Contractor will immediately notify the Public Works Director.

### **10.3 HAZARDOUS WASTE DIVERSION RECORDS**

Contractor shall maintain records showing the types and quantities, if any, of HHW found in Solid Waste, which was inadvertently collected from Customers within the City, but diverted from landfills.

## **Section 11 CUSTOMER SERVICE**

### **11.1 OFFICE HOURS**

Contractor has represented to City that Contractor will maintain an office with assigned personnel accessible by a local phone number. Contractor's office hours are to be from 8:00 a.m. to 5:00 p.m. Monday-Friday and 8:00 a.m. to 12:00 p.m. on Saturdays when collection is occurring. At Contractor's expense, its regular and emergency telephone numbers shall be listed in La Habra-area telephone directories under both Contractor's name and the City's name. Contractor shall have the capability of responding to Customers in English, Spanish dialects, and other languages necessary for communication between Contractor and its Customers.

### **11.2 EMERGENCY TELEPHONE NUMBER**

Contractor will maintain an emergency telephone number for use by City personnel only outside office hours identified in Section 11.1 above. Contractor shall have a representative, or an answering or call-forwarding service to contact such representative, available at the emergency telephone number during all hours other than office hours.

### **11.3 SERVICE COMPLAINTS**

City and Contractor agree that the protection of public health, safety and well-being require that service Complaints be acted on promptly and that a record be maintained in order to permit City and Contractor to identify potential public health and safety problems. Accordingly, all Customers' Complaints shall be directed to Contractor. During office hours, Contractor shall maintain a complaint service and a telephone answering system. Contractor shall record all Complaints, including date, time, complainant's name and address if the complainant is willing to give this information, and date and manner of resolution of Complaint. Contractor shall maintain this information in a computerized daily service complaint log. In the case of a Complaint for a missed collection received on a collection day, Contractor shall make the collection no later than 5 p.m. if it has been notified by noon, or on the first collection day after the Complaint is received, if the Complaint was not received until after noon. Any such calls received via Contractor's answering service shall be recorded in the service complaint log the following working day. This service complaint log shall be available for review by City representatives during Contractor's office hours and be accessible to the City during business hours via modem. Contractor shall provide a copy of this service complaint log on computer disc, in a format compatible with City's computer system, to the City with the monthly report.

#### 11.4 CUSTOMER SERVICE STANDARDS

Customer care is among the most important aspects of the services to be required of the Contractor. Contractor shall perform customer service at a level that can be measured by the following two standards:

1. The number of Complaints in any one-month period totaling no more than one percent (1%) of the number of residential customers served. Any Complaint level in excess of this standard will be considered a separate violation of the Agreement.
2. Sufficient telephone line capacity during normal office hours to assure that a minimum of 90% of all calls will be answered before the fourth (4<sup>th</sup>) ring. Contractor shall ensure that all incoming calls are answered courteously and promptly during the office hours stated above. Calls will be answered in less than an average of thirty (30) seconds, and thereafter will not be placed on hold longer than an average of one (1) minute before talking to a customer service representative of the Contractor. This standard must be measured quarterly, and the Contractor shall not exceed this standard or it will be considered a separate violation of the Agreement.

In any 12-month period, if the Contractor accumulates four or more separate customer service violations, it shall be deemed a material breach of the Agreement and shall subject Contractor to all remedies which are available to the City under the Agreement or otherwise, provided, that the City must follow the procedures for dispute resolution found in Section 23 of this Agreement before declaring any such material breach.

#### 11.5 EMPLOYEE LIST

Contractor shall provide a list of current employees and authorized subcontractors to City upon request.

#### 11.6 DRIVER'S LICENSE

Each employee operating a vehicle, as part of his or her duties shall, at all times, carry a valid operator's license for the type of vehicle he or she is operating.

## 11.7 TRAINING AND LEGAL COMPLIANCE

Contractor shall provide operating and safety training that meets minimum OSHA standards for all personnel and shall comply with all laws and regulations applicable to its employees and personnel.

**Section 12 OWNERSHIP OF SOLID WASTE.**

Except as otherwise provided under state law, Ownership and the right to possession of Solid Waste, including Green Waste and Recyclable Materials, shall transfer directly from the Customer to Contractor upon collection by Contractor. At no time shall the City obtain any right of ownership or possession of Solid Waste or hazardous waste placed for collection and nothing in this Agreement shall be construed as giving rise to any inference that City has any such rights.

**Section 13 MARKETING OF RECYCLABLE SOLID WASTE.**

Contractor agrees to market all marketable recyclable materials collected pursuant to this Agreement. Contractor is entitled to all revenues (including California Redemption Value revenues) received by Contractor from the marketing of recyclable materials. Contractor shall assume all risk, and enjoy all rewards, resulting from changes in market prices of Recyclable Materials.

## Section 14 RATES AND BILLING

### 14.1 RATES

Contractor's compensation for all solid waste collection, transportation, processing, recycling, and disposal services shall be the rates set forth in EXHIBIT A, or those rates as they may be adjusted pursuant to Section 14.5 of this Agreement.

### 14.2 FRANCHISE AND SANITATION FEES - GENERAL

Contractor shall be obligated to pay to City a franchise fee and a sanitation fee. The franchise fee and sanitation fee shall each be based on a percentage of Contractor's annual Gross Receipts, and the amounts billed to Customers by City during the entire Term of this Agreement (the "Franchise Fee" or the "Sanitation Fee"). The initial Franchise Fee and Sanitation Fee Percentages shall be as set forth in this Agreement. Any changes in the Sanitation Fee or Franchise Fee percentage shall be determined by resolution of the City Council.

### 14.3 FRANCHISE AND SANITATION FEES – PAID BY CONTRACTOR

Franchise Fees and Sanitation Fees shall be paid to City monthly on or before the thirtieth (30th) day of each month. Should any such due date fall on a weekend or holiday in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal the percentage of Contractor's Gross Receipts in the calendar month preceding the date payment is due. The Franchise Fee and Sanitation Fee due hereunder shall apply to Gross Receipts of Contractor collected after the expiration of the Term hereof relating to Contractor's performance during the Term hereof. Franchise Fees and Sanitation Fees shall be accompanied by a statement certified by an officer of Contractor attesting to the accuracy of the amounts paid, and setting forth the basis for their calculation in a manner acceptable to City.

City shall have the right to approve the format and content of Contractor's Franchise Fee/Sanitation Fee Statements and shall show at a minimum, the following details:

- 1) Residential Sector: Itemized totals showing gross receipts, franchise fees and sanitation fees. Totals must show the billing month, rate percentage, number of units, and individual rate for the base rate for trash collection, the extra greenwaste cart rate, and the extra cart rate, and any other special residential services.

- 2) Commercial Sector: At a minimum, Contractor must indicate the total amount of gross receipts, the corresponding franchise fees and sanitation fees, and the percentages used in calculation. Total must not be combined with residential or rolloff totals.
- 3) Industrial/Rolloff Sector: At a minimum, Contractor must indicate the total amount of gross receipts, the corresponding franchise fees and sanitation fees, and the percentages used in calculation. Total must not be combined with residential or commercial totals.

Franchise Fees at the inception of this agreement shall be set at nine and one-half percent (9.5%) of gross receipts from Single Family Residential Customers and eleven and one-half percent (11.5%) of gross receipts collected from Multi-Family and Commercial Customers.

Sanitation Fees at the inception of this agreement shall be set at twenty two and three-tenths percent (22.3%) of gross receipts from Single Family Residential Customers and twelve and one-half percent (12.5%) of gross receipts collected from Multi-Family and Commercial Customers. The aforementioned percentage of gross receipts has been calculated to generate sufficient revenue to cover the actual cost of the services provided for the Sanitation Fee.

#### 14.4 FRANCHISE AND SANITATION FEES – REMITTED TO CITY

The Franchise Fees and Sanitation Fees due in connection with compensation remitted to Contractor from Customer billings by the City shall be deducted by Contractor and remitted to City.

#### 14.5 ADJUSTMENT OF RATES

Beginning on July 1, 2019, and each July 1 thereafter during the Term of this Agreement, Contractor shall be entitled to an increase in the rates in EXHIBIT A or the rates then in effect, to allow for automatic inflationary cost increases. The adjustment of Contractor's rates shall be accomplished according to the procedures and methodology set forth below and according to the example in EXHIBIT E.

On or before March 31<sup>st</sup> of each year in which an adjustment is to be made, Contractor will submit to the City exhibits and documentation setting forth

- (1) current rates,
- (2) the applicable CPI Index and PPI Index values,
- (3) the percentage change in the those Index values,

- (4) the change in tipping fees pursuant to the Orange County Waste Disposal Agreement,
- (4) the calculation of the annual rate adjustment pursuant to EXHIBIT E.
- (5) the proposed adjusted rates; and
- (6) the proposed adjusted rates (including Franchise and Sanitation Fees).
- (7) documentation supporting Contractor's compliance with Section 14.7 of the Agreement.

Submission of these exhibits and documentation is for convenience of the City in evaluating rate adjustments, but is not binding on the City. The City in its sole discretion may make corrections or adjustments to these exhibits and documentation to provide for rate adjustments in accordance with the terms of this Agreement.

Each adjusted rate on the rates schedule shall be equal to the sum of the following:

(1) 65% of the prior rate (or other amount) *multiplied* by 75% of the percentage change in the CPI Index (Consumer Price Index for all Urban Consumers (National CPI-U) for the Los Angeles/Orange County/Riverside MSA compiled and published by the United States Department of Labor, Bureau of Labor Statistics, or any other measure hereafter employed by the Federal Bureau of Labor Statistics in lieu of the consumer price index that measures the cost of living in U.S. cities), *plus*

(2) 5% of the prior rate (or other amount) *multiplied* by 100% of the change in the Producer Price Index (PPI Index Series WPU0531) for natural gas, as published by the United States Department of Labor, Bureau of Labor Statistics, or, if that index is no longer published, a substitute or replacement employed by the Federal Bureau of Labor Statistics in lieu thereof that measures the cost of natural gas fuel in the United States, *plus*

(3) 30% of the prior rate (or other amount) *multiplied* by 100% of the change in the tipping fee for disposal of municipal solid waste pursuant to the Orange County Waste Disposal Agreement.

In calculating the annual change in the CPI and the PPI, the base value (denominator) used for the current year's calculation shall be equal to the indexed value (numerator) used for the previous year's calculation such that the annual percent changes in the rate components shall accurately reflect the changes in the indexes over the long term.

In any year that the sum of items (1), (2) and (3) above is negative, rates for that year shall not decrease and shall not be adjusted. A sample annual rate adjustment calculation is included in EXHIBIT E.

The aforementioned July 1 rate adjustments shall be preceded by a thirty-day notice pursuant to Government Code Section 53756 (d).

No additional increase in rates may occur unless and until any notice and hearing which may be required by Proposition 218 (California Constitution Article XIII D, section 6), and related California Government Code sections have been given and held. The City shall initiate and undertake the notice and hearing process with respect to any increases in fees and charges occurring from time to time during the Term arising from the operation of this section, in accordance with the requirements of Proposition 218 (California Constitution Article XIII D, section 6), and related California Government Code sections. If the proposed increase in rates is not approved at the hearing pursuant to the requirements of the Proposition 218 process, there will be no increase in the rates under this Agreement.

#### 14.6 EXTRAORDINARY RATE ADJUSTMENT

Contractor may request an adjustment to the rates at other times to provide for the reimbursement of unusual increased costs of providing service under this Agreement, to the extent not included within the annual rate adjustment provided in Section 14.5. Unusual increased costs may include changes in service mandated by the City, changes to the La Habra Municipal Code affecting Contractor's operations, increases in franchise fees imposed by the City, changes in state or local government solid waste fees and charges, or changes in the law, but shall not include circumstances within the control of Contractor, such as changes in the purchase price of new equipment, or negotiation of wage and benefit increases in connection with a collective bargaining agreement. For each request, Contractor must prepare a schedule documenting the extraordinary costs. The request shall be prepared in a form acceptable to the City Manager with support for all assumptions made by Contractor in preparing the estimate. The City Council shall review Contractor's request and, at its sole discretion, make the final determination on the appropriate amount of the adjustment, if any, within sixty (60) days of receipt of Contractor's request.

No increase in rates may occur unless and until any notice and hearing which may be required by Proposition 218 (California Constitution Article XIII D, section 6), and related California Government Code sections have been given and held. The City shall initiate and undertake the notice and hearing process with respect to any increases in fees and charges occurring from time to time during the Term arising from the operation of this section, in accordance with the requirements of Proposition 218 (California Constitution Article XIII D, section 6), and related California Government Code sections. If the

proposed increase in rates is not approved at the hearing pursuant to the requirements of the Proposition 218 process, there will be no increase in the rates under this Agreement.

#### 14.7 COMPETITIVE RATE GUARANTEE

Contractor guarantees that throughout the term of this Agreement that the Contractor's rate for Single-family Residential Cart Collection Service and Contractor's rate for Multi-family and Commercial Bin Collection Service (for a three-yard bin picked up once per week), will be in the lowest third of rates being charged for similar services in all cities in the County of Orange. Contractor's comparable rate shall be the total amount being received by Contractor for services provided under this Agreement. In comparing rates of other cities with that of the City, franchise fees paid by solid waste providers in the comparable cities shall be excluded from the calculation of the other cities' comparable rates. In addition, only those fees related to and charged for the provision of integrated solid waste management services shall be included in the comparison. Such fees would include fuel surcharges, capital accounts for solid waste containers and AB 939 program fees. Fees for street sweeping, storm drains, sewers or other non-related services shall be excluded.

For comparison purposes, the billing costs for Cart Customers for all comparable cities will be assumed to be equal to one dollar (\$1.00) per home per month.

As used in this section, the term "similar services" for residential customers shall refer to an automated three-Cart system utilizing one Cart for Refuse, one Cart for Recyclables and one Cart for Green Waste. If comparable cities have rates for multiple sizes of Residential Carts, the rate for the largest size Refuse Cart shall be used. The City and Contractor agree that the attached list of cities for Single-family Residential three-Cart systems and for Bin Customers (EXHIBIT F) provide "similar services" as that term in used herein. If any of the listed cities discontinue the three-Cart system or other cities add the three-Cart system, they shall, respectively, be deleted or added to the list. If any of the listed cities modify their commercial system to an "open system" in all areas of the city, then that city shall be excluded from the list. Only franchise-regulated rates shall be used for comparison purposes in determining whether the Contractor has met its obligations under this section. Upon receipt of the Contractor's annual rate comparisons, the City shall review the comparable cities and their rates and notify the Contractor of its objections, if any.

In determining whether the rates charged by the Contractor are in the lowest third, there must be twice as many cities on the list charging a higher rate as there are cities charging a lower rate. As an example, if 17 cities were listed, including the City of La Habra, the

City would have to at least be the 6th lowest, with five cities lower and 11 cities higher. If 32 cities were listed, including the City of La Habra, the City would have to at least be the 11<sup>th</sup> lowest, with 10 cities lower and 21 cities higher. Contractor shall file its rate comparison with the City by March 31<sup>st</sup> of each year.

Should compliance with this section limit a rate increase for the three-yard Bin Collected once per week to less than the percentage rate increase calculated under Section 14.5 any increase for all Bin service levels will be limited in that rate year to the same percentage increase permitted for the three-yard Bin Collected once per week.

#### **14.8 RESOLUTION OF DISPUTES REGARDING RATE ADJUSTMENTS**

Any dispute regarding the computation of a rate adjustment shall be decided by the City Manager, or referred by the City Manager to the City Council as provided in Section 23. A rate adjustment computation decision by the City Manager or the City Council may be appealed by Contractor in accordance with the procedures provided in Section 23. The rates in effect at the time a rate adjustment dispute is submitted to the City Council shall remain in effect pending resolution of that dispute. The effective date of a rate determined through the dispute resolution procedures provided in Section 23, shall be the next immediate billing cycle of the Contractor after the date of dispute resolution, provided that any and all notice and hearing requirements which are required to be met under Proposition 218 (California Constitution Article XIII D, section 6), and related California Government Code sections have been met. The City shall promptly initiate and undertake a notice and hearing process to the extent required to make the resolution of any dispute effective.

#### **14.9 ACCOUNT DELINQUENCIES**

A Solid Waste Customer will become delinquent in the event of non-payment after thirty (30) days from the date of a billing. Contractor will send a notice of termination of service for non-payment at sixty (60) days. Contractor may terminate collection service five (5) days after sending the sixty (60) day termination notice and until payment in full has been received. Contractor may charge 1.5% interest per month (as set forth in EXHIBIT A) on any delinquent account for such time as the bill remains unpaid after its due date. Contractor may charge a late fee as set forth in EXHIBIT A. Contractor will provide the City a list of delinquent accounts upon request. After a customer's service is terminated for non-payment, customer shall be required to pay a restart fee (as set forth in EXHIBIT A) to resume service.

#### **14.10 BILLING BY CONTRACTOR**

Contractor shall bill all Customers for Bin Collection Service, Rolloff Box Collection Service, and Commercial Customers receiving Cart Collection Service, as shown in EXHIBIT A. Contractor shall bill Customers with Bin Collection Service monthly in advance. Contractor shall bill Customers with Bin Collection Service on or about the first of each month for the service provided in the ensuing month. Contractor shall bill Customers with Rolloff Box Collection Service semi-monthly in arrears. Contractor shall not bill Customers for any other service, service enhancement or any other fee or charge without prior written approval from City. Contractor may charge Customers a late fee of no more than one and one-half percent (1.5%) of any unpaid balance per month. Contractor shall deduct applicable franchise fees and sanitation fees and remit such fees back to City.

Contractor's invoices must plainly and accurately describe the service provided. Contractor's invoices must itemize the size and number of Containers, the frequency of service and the period in which the service is provided. City shall have the right to approve the format and content of Contractor's invoices.

#### **14.11 BILLING BY CITY**

The City shall bill all Single Family, and Multi-Family Residential Customers receiving Cart Collection Service, on a monthly basis in arrears for regular service, and monthly in arrears for extra services.

#### **14.12 PAYMENT BY CITY TO CONTRACTOR**

The City shall remit to Contractor for Cart Collection Service a total amount based upon the per unit standard service charge for regular service and any extra service charges, as set forth in EXHIBIT A, as adjusted, actually billed by City. City shall remit payment for Cart Collection Service to Contractor on a monthly basis. Contractor shall deduct applicable franchise fees and sanitation fees and remit such fees back to City.

The City shall provide to the Contractor a detailed electronic spreadsheet listing customer billing accounts based on the type of service and corresponding rate per unit on a monthly basis. The total billings listed in the spreadsheet shall be summarized and used for the monthly unit count. The monthly unit counts will be multiplied by the corresponding rates for cart collection service and any extra services billed by the City. The contractor will provide a monthly billing statement that includes the city provided unit count summary.

## **Section 15 CONTRACTOR'S BOOKS AND RECORDS; AUDITS**

### **15.1 RECORD RETENTION**

In addition to the record retention requirements of Sections 17.8 and Section 20.4, below, Contractor shall maintain, in electronic form at a minimum, all records relating to the services provided hereunder, including, but not limited to, route maps, customer lists, billing records, weight tickets, maps, the Act records, and Customer Complaints, for the period during which collection services are provided pursuant to this Agreement, and an additional period of not less than three (3) years after expiration or termination of this Agreement, or any longer period required by law. In addition, summaries of weight tickets identifying the disposition of waste collected in the City shall be kept for a period of thirty (30) years.

### **15.2 AUDITS**

The City shall have the right, upon reasonable advance notice, to inspect, audit and copy all of Contractor's records relating to Contractor's provision of services pursuant to this Agreement, including, but not limited to, route maps, customer lists, billing records, weight tickets, the Act records and Customer complaints, Contractor's payment of fees to City and records which may be relevant in the event of an action under CERCLA or related claims. In the absence of extraordinary circumstances, five (5) business days' notice shall be considered reasonable. Such records shall be made available to City (or City's designated representative) at Contractor's regular place of business, but in no event outside the County of Orange. The City shall maintain any confidential or proprietary records of Contractor in confidence and shall not disclose such records except as required by any applicable public records disclosure law. Prior to destruction of records relating to the services provided pursuant to this Agreement, Contractor shall provide copies or originals of such records to City.

### **15.3 TRIENNIAL PERFORMANCE AUDITS**

In addition to the City's rights to audit the Contractor's records on an ad hoc basis, the City shall have the right to conduct a comprehensive audit of Contractor's performance once every three years during the Term of this Agreement. The scope of the triennial performance audit shall be determined by the City. The scope of the triennial audit may include, but not necessarily be limited to, a review of all aspects of Contractor's performance including billing accuracy, payment of fees, diversion, safety and customer service. The triennial performance audit may be conducted by City staff or by a firm retained by the City. The Contractor shall reimburse the City for the cost of each triennial audit in an amount not to exceed thirty thousand dollars (\$30,000) for every triennial audit conducted

during the Term of this Agreement. Contractor shall reimburse City within thirty (30) days of the completion of each triennial audit.

#### 15.4 OVERPAYMENT OR UNDERPAYMENT

Should any examination or audit of Contractor's records reveal an overpayment or underpayment by Contractor, the amount of underpayment, plus interest compounded monthly at the maximum lawful rate, shall be paid by Contractor to City within thirty (30) days. The amount of any overpayment shall be paid by City to Contractor in the ordinary course of business.

### **Section 16 THE ACT REPORTING REQUIREMENTS**

Contractor shall cooperate with City in solid waste disposal characterization studies and waste stream audits and shall implement measures adequate to achieve the City's source reduction, recycling and waste stream diversion goals for the solid waste stream covered by this Agreement. During the period in which collection services are provided pursuant to this Agreement, Contractor at Contractor's sole expense, shall submit to City information and reports necessary for City to meet its reporting obligations imposed by the Act, and the regulations implementing the Act, for the waste stream covered by this Agreement. Contractor agrees to submit such reports and information on computer discs, or by modem, in format compatible with City's computers, at no additional charge, if requested by City.

## Section 17 FINANCIAL REPORTS AND ADVERSE INFORMATION

### 17.1 MONTHLY AND QUARTERLY REPORTS AND OTHER INFORMATION

Contractor, at its sole expense, shall submit to the City such other information or reports in such forms and at such times as the City may reasonably request or require, including, but not limited to the following:

1. Monthly Reports. Monthly Reports will be submitted to City, transmitted in a format acceptable to City (via e-mail compact disc, and/or printed copy). The monthly report shall show the number of tons collected by customer sector, by material type, and the tonnage delivered to disposal facilities, itemized by disposal facility. An electronic copy with a copy of the customer complaint log shall be submitted with the monthly report. Data must be maintained at Contractor's place of business identifying temporary service diversion tonnage, and be accessible to the City during normal business hours.

2. Quarterly Reports. In addition to providing a quarterly summary of the monthly reports, Quarterly Reports shall include the following:

- a. Recyclable Solid Wastes (including Green Wastes):
- (1) A statement showing, by type of material, tons received each month and tons marketed during the month.
  - (2) A report providing recycling information and the number of residential and commercial Customers participating.
  - (3) A narrative description of problems encountered and actions taken, including efforts to deter and prevent scavenging. This is to include a description of tons rejected for sale after processing (type of material, tonnage), reason for rejection and Contractor's disposal method for the rejected materials.

- (4) A report of recycling program promotional activities, including materials distributed by Contractor to its Customers.
- (5) A report of the amount and types of bulky items collected including disposition.

b. Hazardous Waste Diversion Reports:

A copy or summary of the records required by Section 10.3, above.

**17.2 ANNUAL REPORT**

By March 31<sup>st</sup> of 2019 and each year thereafter that collection services are provided pursuant to this Agreement, Contractor shall submit to City a written year-end Annual Report, for the preceding calendar year, in a form approved by the City. The Annual Report shall include, but not be limited to, the following information:

1. Prior Year's Activities. A report of the previous calendar year's activities in the City, including a cumulative summary of the Quarterly Reports, and information and statistics with respect to City's compliance with the Act, Contractor's public education activities, and a tabulation and summary of Customer Complaints received by Contractor.

2. Recommendations. Changes in integrated waste management, including projections and proposed implementation dates and costs, recommended by Contractor or this Agreement, based on developments in the law or technology. Contractor's recommendations with respect to compliance with the Act shall state the specific requirement of the Act that the implementation of the recommendation is intended to satisfy.

**17.3 REPORTING ADVERSE INFORMATION**

Contractor shall provide City two copies (one to the City Manager, one to the City Attorney) of all reports, pleadings, applications, notifications, notices of violation, communications or other material relating specifically to Contractor's performance of services pursuant to this Agreement, submitted by Contractor to, or received by Contractor from, the United States or California Environmental Protection Agency, the California Integrated Waste Management Board (or its successor agency), Local Enforcement Agency, the Securities and

Exchange Commission or any other federal, state or local agency, including any federal or state court. Copies shall be submitted to City simultaneously with Contractor's filing or submission of such matters with said agencies. Contractor's routine correspondence to said agencies need not be routinely submitted to City, but shall be made available to City promptly upon City's written request.

#### 17.4 FAILURE TO REPORT

The refusal or failure of Contractor to file any required reports, or to provide required information to City, or the inclusion of any materially false or misleading statement or representation by Contractor in such report shall be deemed a material breach of the Agreement and shall subject Contractor to all remedies which are available to the City under the Agreement or otherwise, provided, that the City must follow the procedures for dispute resolution found in Section 23 of this Agreement before declaring any such material breach.

#### 17.5 CITY'S REVIEW OF CONTRACTOR'S PERFORMANCE

Annually, within ninety days of City's receipt of the Annual Report required by Section 17.2, above, City shall review the Annual Report and other available information and may hold a public hearing to determine whether Contractor's performance for the year reported on was satisfactory and whether to implement any changes recommended by Contractor. The reports required by this Agreement shall be utilized as the primary basis for review. In addition, any Customer comments or Complaints and any other relevant information may be considered. A Contractor representative shall be entitled to be present and may participate at any public hearing held by City to review Contractor's performance. If any noncompliance with the Agreement is reported to have occurred, City shall offer Contractor the opportunity to comment and offer information in rebuttal and to correct any deficiencies.

#### 17.6 COSTS

All reports and records required under this Agreement shall be furnished at the sole expense of Contractor.

a. Certification:

Contractor will provide a certification statement, under penalty of perjury, by the responsible corporate official, that the report is true and correct.

**17.7 SUBMISSION OF REPORTS**

Reports shall be submitted to:

City Manager [or designated representative]  
City of La Habra  
110 E. La Habra Blvd.  
La Habra, CA 90633

Contractor agrees that cooperation between Contractor and the City is critical to the success of this program. City reserves the right to request from Contractor additional information reasonably and directly pertaining to this Agreement on an "as-needed" basis.

**17.8 CERCLA DEFENSE RECORDS**

City and Contractor agree that the ability to defend against CERCLA and related litigation is of great importance. For this reason, City and Contractor regard the ability to prove where solid waste collected in the City was taken for disposal, as well as where it was not taken, to be matters of concern. Contractor shall maintain data retention and preservation systems which, in the event of litigation, can establish where solid waste collected in the City was disposed (and therefore establish where it was not disposed) and will provide a copy of the reports required by Sections 10.2, "Hazardous Waste Inspection and Reporting," 10.3, "Hazardous Waste Diversion Records" and 17.1, "Monthly and Quarterly Reports," above, to the City Clerk. In addition, Contractor agrees to maintain electronic copies of the foregoing reports for thirty (30) years after the end of the period during which collection services are to be provided pursuant to this Agreement. Contractor agrees to notify City's Risk Manager and City Attorney before destroying Contractor's copies of such records and Contractor shall provide copies or originals of such records to City. This provision shall survive the expiration of the period during which collection services are to be provided under this Agreement.

## **Section 18 COMPLIANCE WITH LAWS AND REGULATIONS**

Contractor and City will comply with all applicable laws and implementing regulations of the federal and state government, as they, from time to time, may be amended, specifically including, but not limited to, RCRA, CERCLA, and the Act; and, all applicable ordinances of the City, and Proposition 218 (California Constitution Article XIII D, section 6), and related California Government Code sections.

## Section 19 INDEMNIFICATION AND INSURANCE

### 19.1 INDEMNIFICATION OF CITY

Contractor shall protect, defend (with counsel reasonably approved by the City), indemnify and hold harmless City, its elected officials, officers, employees, volunteers and agents (collectively "Indemnities") from and against any and all losses, liabilities, fines, penalties, forfeiture, claims, damages, liabilities or judgments, including attorney's fees, (including, but not limited to, injury to and death of any person and damage to property, or for contribution or indemnity claimed by third parties) arising out of, or result from and/or in any way connected with this agreement, including (1) the negligence or willful misconduct of Contractor, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Contractor, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement, all applicable laws (including, without limitation, Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Contractor, its officers, employees, agents and/or subcontractors in performing services under this agreement for which strict liability is imposed by law (including, without limitation, Environment Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provisions hereof violates any provision of the California Constitution). The forgoing indemnity and hold harmless provisions shall apply, regardless of whether such loss, liability, penalty, forfeiture, claim, action, proceeding, suit, injury, death or damage is also caused in part by any of Indemnities' negligence, but shall not extend to matters resulting from Indemnities' sole negligence, or willful misconduct. Contractor further agrees to and shall, upon demand of the City, at Contractor's sole cost and expense, defend City (with attorneys acceptable to City), its elected and appointed boards and commissions, officers, employees and agents against any claims, actions, lawsuits or equity or other proceedings whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City incurs in providing any such defense, either bore, during or after the time contractor elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by contractor.

Contractor shall protect City and appear in and defend the City and its elected officials, officers, employees and agents, in any claims or actions by third parties, whether judicial, administrative or otherwise, arising out of or resulting in any way from City's grant of this Agreement to and Contractor's performance of this Agreement, including, but not limited to disputes and litigation over the definitions of "solid waste" or "recyclable material" or the limits of City's authority with respect to the grant of Licenses, or agreements, exclusive or otherwise, asserting rights under the Commerce Clause (including the Dormant Commerce

Clause and federal or state legislation governing the process for the award of solid waste contracts) to provide solid waste services, or the necessity or propriety of notice and hearing procedures required to effect any increase in rates for Contractor's services hereunder (to the extent arising from the acts or omissions of Contractor in connection with any notice and hearing process). This provision shall survive the expiration of the period during which collection services are to be provided under this Agreement, for claims arising prior to the expiration of the period during which collection services are to be provided pursuant to this Agreement.

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

## 19.2 HAZARDOUS SUBSTANCES INDEMNIFICATION

Contractor agrees to indemnify, defend (with counsel reasonably selected by City), protect and hold harmless City from and against all claims, actual damages, natural resources damages, injuries, costs, response, remediation and removal costs, losses, liabilities, causes of action, interest, and expenses (including but not limited to reasonable attorney's and expert's fees) of any kind whatsoever paid, incurred, suffered or incurred by or against City resulting from any repair, cleanup, removal action or response action undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. (hereinafter "CERCLA"), the California Health and Safety Code (hereinafter "H&S Code") or other similar federal, state or local law or regulation, with respect to Solid Waste collected, transported and disposed of by Contractor. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA and Section 25364 of the H & S Code to defend, protect, hold harmless and indemnify City from all forms of liability under CERCLA, the H & S Code or other similar federal, state or local law or regulation.

Notwithstanding any provision herein to the contrary, the foregoing indemnity is expressly conditioned upon the implementation by City of a program for minimization and proper recycling, treatment and disposal of Hazardous Waste generated or accumulated by Single-Family and Multi-Family Residences in compliance with §§ 41500 and 41802(b)(2) of the Public Resources Code. The City's implementation of a program for minimization and proper recycling, treatment and disposal of Hazardous Waste generated or accumulated by Single-Family and Multi-Family Residences shall be presumed to be in compliance with §§ 41500 and 41802(b)(2) of the Public Resources Code unless Contractor or an agency with jurisdiction has notified City that its program is not in compliance, and a final determination

has been made that the City's program is not in compliance with §§ 41500 and 41802(b)(2) of the Public Resources Code.

The following terms used above shall have the indicated meanings:

"Hazardous Waste" means any waste materials or mixture of wastes defined as "hazardous substances", "hazardous waste" or "designated waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the California Health and Safety Code, the California Water Code, the California Integrated Waste Management Act, or other similar federal, state or local law or regulation. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or solid waste, the term "Hazardous Waste" shall be construed to have the broader, more encompassing definition.

With respect to Hazardous Waste collected by Contractor, or by the Contractor's subcontractor, pursuant to this Agreement which has been disposed of at places owned or operated by Contractor, or by an entity under the same ownership and control of Contractor, Contractor shall deliver a Hazardous Substances Indemnification in the form, or the form in substance, as set forth in this Agreement. Such facility shall be considered a "Contractor Facility."

With respect to Hazardous Waste collected by Contractor, or by the Contractor's subcontractor, pursuant to this Agreement which has been disposed of at places not owned or operated by Contractor or by an entity under the same ownership and control of Contractor, Contractor shall cause the owner or operator of the alternate facility to deliver a hazardous substances indemnification in the form, or the form in substance, as set forth in this Agreement. Upon delivery and during the effective period of the hazardous substances indemnification, such facility shall be considered an "Approved Alternative Facility." If such indemnification is unavailable, then Contractor shall perform due diligence environmental site assessments of the alternate facility in accordance with current standard practices as accepted by the American Society for Testing and Materials. Contractor shall provide copies of any Environmental Site Assessments to City and shall maintain such at Contractor's facilities for no less than thirty (30) years after termination or expiration of this Agreement.

Contractor represents and warrants to City that the disposal of Hazardous Waste shall occur only at a Contractor Facility or an Approved Alternative Facility. Contractor represents and warrants to City that it will undertake reasonable efforts to ensure that the disposal of Hazardous Waste occurs at a Contractor Facility or an Approved Alternative Facility.

### 19.3 THE ACT INDEMNIFICATION

In addition to its duties pursuant to Section 16, Contractor agrees to implement measures to meet the requirements of the City Code with respect to the collected waste stream covered by this Agreement. Contractor agrees to protect, defend, indemnify and hold City harmless against all fines or penalties imposed by the California Integrated Waste Management Board in the event the diversion, source reduction and recycling goals of the Act are not met by the City of La Habra with respect to the collected waste stream covered by this Agreement as a result of Contractor's failure to perform under this Agreement, or if Contractor's delays in providing information prevent City from submitting reports required by the Act in a timely manner. City and Contractor agree to negotiate with respect to any additional Act-related services, which Contractor and City agree to implement.

### Section 20 INSURANCE COVERAGE

Without limiting the indemnity provisions of the Contract, the Contractor shall procure and maintain in full force and effect during the term of the Contract, the following policies of insurance. If the existing policies do not meet the Insurance Requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

Copies of policies and endorsements that implement the required coverage shall be filed and maintained with the City Clerk throughout the term of this Agreement. The policy providing coverage shall be amended to provide that the insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days in the event of termination for non-payment) by certified mail, return receipt requested, has been given to City. The policy shall also be amended to waive all rights of subrogation against the City, its elected or appointed officials, employees, or agents for losses that arise from work performed by the named insured for the City.

- (a) **Commercial General Liability:** Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, with minimum limits of at least \$5,000,000 each occurrence, and if written with an aggregate, the aggregate shall be double the each occurrence limit.

**Products-Completed Operations:** Contractor shall procure and submit to City evidence of insurance for a period of at least three (3) years from the time that all work under this Contract is completed.

- (b) **Automobile Liability Insurance:** Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) with minimum limits of \$5,000,000 each accident.
- (c) **Contractors Pollution Liability:** Contractors Pollution Liability Insurance covering all of the contractor's operations to include onsite and offsite coverage for bodily injury (including death and mental anguish), property damage, defense costs and cleanup costs with minimum limits of \$5,000,000 each loss and \$10,000,000 in the aggregate.
- (d) **Workers' Compensation:** Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.
- (e) **Employers' Liability:** Employer's Liability Insurance with a minimum limit of \$1,000,000.00 in accord with the provisions and requirements of the Labor Code of the State of California

## 20.1 ENDORSEMENTS

Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval.

- (a) The insurance coverages required by Section 1.0 (a) Commercial General Liability; (b) Automobile Liability Insurance; and (c) Contractors Pollution Liability shall contain the following provisions or be endorsed to provide the following:
  - (1) **Additional Insured:** The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Contract.

Additional Insured Endorsements shall not:

1. Be limited to "Ongoing Operations"

2. Exclude "Contractual Liability"
  3. Restrict coverage to the "Sole" liability of contractor
  4. Exclude "Third-Party-Over Actions"
  5. Contain any other exclusion contrary to the Contract
- (2) **Primary Insurance:** This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance.
- (b) The policy or policies of insurance required by Section 1.0 (d) Workers' Compensation shall be endorsed, as follows:
- (1) **Waiver of Subrogation:** A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

## 20.2 NOTICE OF CANCELLATION

Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

## 20.3 WAIVER OF SUBROGATION

Required insurance coverages shall not prohibit Contractor from waiving the right of subrogation prior to a loss. Contractor shall waive all rights of subrogation against the indemnified parties and Policies shall contain or be endorsed to contain such a provision.

## 20.4 EVIDENCE OF INSURANCE COVERAGE

The Contractor, concurrently with the execution of the contract, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates and endorsements on forms approved by the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior

to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

#### **20.5 DEDUCTIBLE OR SELF-INSURED RETENTION**

Any deductible or self-insured retention must be approved in writing by the City and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

#### **20.6 CONTRACTUAL LIABILITY**

The coverage provided shall apply to the obligations assumed by the Contractor under the indemnity provisions of this contract.

#### **20.7 FAILURE TO MAINTAIN COVERAGE**

Contractor agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Contractor until Contractor has fully complied with the insurance provisions of this Contract.

In the event that the Contractor's operations are suspended for failure to maintain required insurance coverage, the Contractor shall not be entitled to an extension of time for completion of the Work because of production lost during suspension.

#### **20.8 ACCEPTABILITY OF INSURERS**

Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing in accordance with the City.

## 20.9 CLAIMS MADE POLICIES

If coverage is written on a claims-made basis, the retroactive date on such insurance and all subsequent insurance shall coincide or precede the effective date of the initial Contractor's Contract with the City and continuous coverage shall be maintained or an extended reporting period shall be exercised for a period of at least three (3) from termination or expiration of this Contract.

Upon expiration or termination of coverage of required insurance, Contractor shall procure and submit to City evidence of "tail" coverage or an extended reporting coverage period endorsement for the period of at least three (3) years from the time that all work under this contract is completed.

## 20.10 REDUCTION OF CERCLA AND OTHER LIABILITY

If necessary, City and Contractor agree to meet annually in the fourth calendar quarter of each calendar year to discuss ways to reduce their respective potential CERCLA and other liabilities to third parties.

## Section 21 CASH AND PERFORMANCE BONDS

A. Prior to the start of collection services under this Agreement, Contractor shall deposit funds, on terms satisfactory to City, in an interest-bearing account at an institution satisfactory to both City and Contractor, or provide a letter of credit, from an institution satisfactory to City, at the option of Contractor, in the amount of one hundred thousand dollars (\$100,000.00). (The funds on deposit and the letter of credit are referred to collectively in this Agreement as the "Cash Bond".) In addition to the Cash Bond, Contractor, at its option, shall deposit either a letter of credit or a performance bond (collectively referred to as "Performance Bond") in the amount of one hundred fifty thousand dollars (\$150,000.00), or in such lesser amount as the City Manager may determine to provide adequate protection to the City. The Cash Bond (including any letter(s) of credit) and the Performance Bond (including any letter of credit) (collectively referred to as "Bonds") shall be on terms acceptable to the City Attorney. The Bonds shall serve as security for the faithful performance by Contractor of all the provisions and obligations of this Agreement. All interest on a cash deposit, if made, shall accrue to Contractor .

B. Upon Contractor's failure to faithfully perform its obligations under this Agreement, the Bonds may be assessed by the City, for purposes including, but not limited to:

1. Reimbursement of costs borne by the City to correct violations of the Agreement not corrected by Contractor, after City provides notice in accordance with Section 23.1.

2. To provide monetary remedies or to satisfy damages assessed against Contractor due to a material breach of this Agreement; or

3. To satisfy an order of the City Council.

C. Contractor shall deposit a sum of money or a replacement instrument sufficient to restore the Bonds to the original amount within thirty (30) days after notice from the City that any amount has been withdrawn from the Bonds. Contractor shall be relieved of the foregoing requirement to replenish the Bonds during the pendency of an appeal from the City's decision to draw on the Bonds. The amount of the Bonds shall be adjusted annually on the anniversary of the execution of this Agreement. The annual adjustment shall be in the annual percentage January-to-January change in the Consumer Price Index for all Urban Consumers (National CPI-U).

D. In the event the City draws on the Bonds, all of City's costs of collection and enforcement of the provisions relating to the Bonds called for by this Section, including reasonable attorneys' fees and costs, shall be paid by Contractor.

E. Any decision or order of City under this Section 21 may be appealed by Contractor through the dispute resolution procedures provided by Section 23 and Section 24 of this Agreement.

## Section 22 EMERGENCY SERVICE

A. Should Contractor for any reason whatsoever, except the occurrence or existence of any of the events or conditions set forth in Section 27.1, "Force Majeure," below, refuse or be unable for a period of more than forty-eight (48) hours, to collect a material portion or all of the Solid Waste which it is obligated under this Agreement to collect, and as a result, solid waste should accumulate in City to such an extent, in such a manner, or for such a time that the City Manager in the reasonable exercise of the City Manager's discretion, should find that such accumulation endangers or menaces the public health, safety or welfare, then City shall have the right to contract with another solid waste enterprise to collect and transport any or all Solid Waste which Contractor is obligated to collect and transport pursuant to this Agreement. City shall provide twenty-four (24) hours prior written notice to Contractor during the period of such emergency, before contracting with another solid waste enterprise to collect and transport any or all Solid Waste which Contractor would otherwise collect and transport pursuant to this Agreement, for the duration of period during which Contractor is unable to provide such services. In such event, Contractor shall identify sources from which such substitute solid waste services are immediately available, and shall reimburse City for all of its expenses for such substitute services during period in which Contractor is unable to provide collection and transportation services required by this Agreement.

B. Contractor will assist City in the event of major disaster, such as an earthquake, storm, flood, fire, riot or civil disturbance, by providing collection vehicles and drivers normally assigned to the City, at the rates provided in EXHIBIT A.

C. Contractor shall furnish to the City upon request at no additional charge emergency containers to store materials and supplies to be used in the event of an emergency. Said containers shall be placed at all public schools and at City Hall or other City Facilities identified by the City Manager.

## Section 23 ADMINISTRATIVE REMEDIES; TERMINATION

### 23.1 NOTICE; RESPONSE; RESOLUTION; APPEAL

1. Notice of Deficiencies; Response. If City's Director determines that Contractor's performance pursuant to this Agreement may not be in conformity with the provisions of this Agreement, the California Integrated Waste Management Act (including, but not limited to, requirements for diversion, source reduction and recycling as to the waste stream subject to this Agreement) or any other applicable federal, state or local law or regulation, including but not limited to, the laws governing transfer, storage or disposal of solid and hazardous waste, the Director may advise Contractor in writing of such suspected deficiencies, specifying the deficiency in reasonable detail. The Director, in any written Notification of Deficiencies, shall set a reasonable time within which Contractor is to respond. Unless the circumstances necessitate correction and response within a shorter period of time, Contractor shall respond to the written Notification of Deficiencies within thirty (30) days from the receipt by Contractor of such written notice. Contractor may request additional time to correct deficiencies. City shall approve reasonable requests for additional time.

2. Review by Director; Notice of Appeal.

a. The Director shall review any written response from Contractor and decide the matter. If the Director's decision is adverse to Contractor, the Director may order remedial actions to cure any deficiencies, assess the Cash Bond or invoke any other remedy in accordance with this Agreement and, in the event the Director determines that there has been a material breach and that termination is the appropriate remedy, terminate the Agreement. The Director shall promptly inform Contractor, of the Director's decision. In the event the decision is adverse to Contractor, the Director shall inform Contractor, in writing, of the specific facts found and evidence relied on, and the legal basis in provisions of the Agreement or other laws for the Director's decision and any remedial action taken or ordered. An adverse decision by the Director shall be final and binding on Contractor unless Contractor files a "Notice of Appeal" with the City Clerk (with copies to the City Manager and City Attorney) within 30 days of receipt of the notification of the adverse decision by the Director.

b. In any "Notice of Appeal" Contractor shall state its factual contentions and include any relevant affidavits, documents, photographs and videotapes which Contractor may choose to submit. In addition, Contractor shall include all of its legal contentions, citing provisions of the Agreement or other laws to support its contentions.

3. Review by City Manager; Appeal.

a. Within thirty (30) days of receipt by the City Clerk of a Notice of Appeal, the City Manager shall decide the matter. If the City Manager's decision is adverse to Contractor, the City Manager may order remedial actions to cure any deficiencies, assess the Cash Bond or invoke any other remedy in accordance with this Agreement; and, in the event the City Manager determines that there has been a material breach and that termination is the appropriate remedy, terminate the Agreement. In addition to the foregoing actions, the City Manager may refer the matter to the City Council for proceedings in accordance with Sections 23.2 and 23.3, below. The City Manager shall promptly inform Contractor of the City Manager's decision. In the event the City Manager's decision is adverse to Contractor, the City Manager shall inform Contractor, in writing, of the specific facts found and evidence relied on, and the legal basis in provisions of the Agreement or other laws for the City Manager's decision and any remedial action taken or ordered.

b. An adverse decision by the City Manager shall be final and conclusive unless Contractor files a "Notice of Appeal to the City Council" with the City Clerk (and serves a copy, by mail, on the City Manager and the City Attorney) within 10 calendar days of receipt of the decision of the City Manager. A "Notice of Appeal to the City Council" shall state the factual basis and all legal contentions and shall include all relevant evidence, including affidavits, documents, photographs and videotapes, which Contractor may choose to submit.

**23.2 CITY COUNCIL HEARING**

If a matter is referred by the City Manager to the City Council, or an adverse decision of the City Manager is appealed to the City Council by Contractor, the City Council will set the matter for an administrative hearing and act on the matter. If the City Council elects to hear the matter, the City Clerk shall give Contractor fourteen (14) days written notice of the time and place of the administrative hearing. At the hearing, the City Council shall consider the administrative record, consisting of the following:

1. A Staff Report by the City Manager, summarizing the proceedings to date and outlining the City Council's options.
2. The Director's written Notification of Deficiencies;
3. Contractor's response to the Notification of Deficiencies;
4. The Director's written notification to Contractor of adverse decision;
5. Contractor's Notice of Appeal

6. The City Manager's written notification to Contractor of adverse decision; and
7. The Notice of Appeal to the City Council.

No new legal issues may be raised or new evidence submitted by Contractor or City at this or at any further point in the proceedings, absent a showing of good cause. Contractor's representatives and other interested persons shall have a reasonable opportunity to be heard.

### **23.3 CITY COUNCIL DETERMINATION**

Based on the administrative record, the Council shall determine by resolution whether the decision or order of the City Manager should be upheld. A tie vote of the City Council shall be regarded as upholding the decision of the City Manager. If, based upon the administrative record, the City Council determines that the performance of Contractor is in breach of any term of this Agreement or any provision of any applicable federal, state or local statute or regulation, the City Council, in the exercise of its discretion, may order Contractor to take remedial actions to cure the breach or impose any other remedy in accordance with this Agreement. The City Council may not terminate the Agreement unless it determines that Contractor is in material breach of a material term of this Agreement or any material provision of any applicable federal, state or local statute or regulation. Contractor's performance under the Agreement is not excused during the period of time prior to a final determination as to whether or not Contractor performance is in material breach of this Agreement, or the time set by City for Contractor to discontinue a portion or all of its services pursuant to this Agreement. The decision or order of the City Council shall be final and conclusive. Contractor has the right to seek judicial review from an appropriate court solely as indicated in Section 24 and Section 25. With the exception of draws on the Cash Bond, the execution of any of City's remedies under this Section 23 shall be stayed until Contractor has exhausted its appeals under Section 24 and Section 25 of this Agreement.

### **23.4 RESERVATION OF RIGHTS BY CITY**

Subject to Contractor's rights and exhaustion of its appeals under Section 24 and Section 25, City further reserves the right to terminate this Agreement in the event of any material breach of this Agreement, including, but not limited to any of the following:

1. If Contractor practices, or attempts to practice, any fraud or deceit upon the City, or practiced any fraud or deceit or made any intentional misrepresentations in the negotiations which preceded the execution of this Agreement;

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

3. If Contractor fails to provide or maintain in full force, effect and amount, the workers compensation, liability and indemnification coverage, Cash and Performance Bonds as required by this Agreement;

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

5. If Contractor ceases to provide collection service as required under this Agreement over a substantial portion of the area of the City of La Habra for a period of two (2) calendar days or more, for any reason within the control of Contractor;

6. If Contractor fails to make any payments required under this Agreement or refuses to provide City with required information, reports or test results as to a material matter in a timely manner as provided in this Agreement;

7. Any other act or omission by Contractor which materially violates the terms, conditions or requirements of this Agreement and which is not corrected or remedied within the time set forth in the written Notification of Deficiencies or if Contractor cannot reasonably correct or remedy the breach within the time set forth in such notice, if Contractor should fail to commence to correct or remedy such alleged deficiencies within the time set forth in such notice and diligently effect such correction or remedy thereafter.

### 23.5 CUMULATIVE RIGHTS

City's rights of termination are in addition to any other rights of City upon a failure of Contractor to perform its obligations under this Agreement.

**Section 24 APPEAL TO JUDICIAL COURT; HEARING PROCEDURES**

Either party to this Agreement at any time after exhaustion of administrative remedies, if applicable, and following the appeal procedure set forth in Section 23, if applicable, may appeal a disputed matter to the appropriate Judicial Court having Jurisdiction pursuant to California Code of Civil Procedure section 1094.5. The venue of any proceeding hereunder shall be as indicated in Section 27.7.

## Section 25 CITY'S ADDITIONAL REMEDIES

In addition to the remedies set forth above, City shall have the following rights in the event of Contractor's material breach and failure to cure following written notice from the City and as provided in Section 27.11:

A. The right to contract with others to perform the services otherwise to be performed by Contractor; and

B. The right to obtain damages and/or injunctive relief. Both parties recognize and agree that in the event of a breach under the terms of this Agreement by Contractor, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief to enforce the provisions of this Agreement and to enjoin the breach thereof.

## Section 26 TRANSFER OF RIGHTS; CITY CONSENT; FEES

A. The rights granted by this Agreement shall not be transferred, sold, hypothecated, sublet or assigned (collectively "transferred"), nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, either by act of Contractor or by operation of law, without the prior written consent of the City expressed by resolution. Any attempt to do any of the foregoing with respect to any of the rights herein without the consent of City shall be void. For purposes of this Agreement, any dissolution, merger, consolidation, change in control or other reorganization of Contractor shall be deemed an assignment of this Agreement. For purposes of this Section, a change of corporate name and a transfer to an entity under common control or ownership of Contractor shall not be deemed a transfer of rights.

B. The decision to consent to any assignment shall be in the sole discretion of the Public Works Director, as approved by Resolution adopted by the City's City Council.

C. Any application for a transfer of rights shall be made in a manner prescribed by the City's Director. The application shall include a Transfer Fee in an amount equal to seven hundred fifty thousand dollars (\$750,000.00). The Transfer Fee shall be paid by Contractor or Contractor's assignee upon any such transfer of this Agreement. If City does not receive the Transfer Fee within thirty (30) days of the transfer date, City shall have the right to terminate this Agreement.

D. Each and all of the provisions, agreements, terms, covenants and conditions herein contained to be performed by Contractor shall be binding upon any transferee thereof.

## Section 27 GENERAL PROVISIONS

### 27.1 FORCE MAJEURE

Contractor shall not be in default under this Agreement in the event that the collection, transportation and/or disposal services of Contractor are temporarily interrupted for any of the following reasons: riots; war or national emergency declared by the President or Congress and affecting the City of La Habra; sabotage; civil disturbance; insurrection; explosion; natural disasters such as floods, earthquakes, landslides and fires; strikes, lockouts and other labor disturbances; or other catastrophic events which are beyond the reasonable control of Contractor. "Other catastrophic events" does not include the financial inability of Contractor to perform or failure of Contractor to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public entity where such failure occurs where Contractor has failed to exercise reasonable diligence.

### 27.2 LABOR DISTURBANCE

In the event a labor disturbance interrupts collection and transportation of Solid Waste, and/or disposal of Solid Waste by Contractor as required under this Agreement, City may elect to exercise its rights under Section 22 of this Agreement.

### 27.3 COMPUTER HARDWARE AND SOFTWARE

Contractor will be required to obtain all necessary computer software, hardware, supplies, personnel and training at Contractor's expense to comply with the City's reporting requirements. Contractor will incur all costs of moving computers, including phone lines in the event they need to relocate. Contractor will maintain a computerized database, with the capacity to maintain an account history of at least eighteen months. Any older account information will be maintained on diskettes, tape, zip drive, or other electronic format for the full term of the contract and a period of three (3) years after termination or expiration of this Agreement, except as otherwise expressly provided for herein. City shall have access to these records during regular business hours.

### 27.4 INDEPENDENT STATUS

Contractor is an independent entity and not an officer, agent, servant or employee of City. Contractor is solely responsible for the acts and omissions of its officers, agents, employees, Contractors and sub-contractors, if any. Nothing in this Agreement shall be construed as creating a partnership or joint venture between City and Contractor, nor an arrangement for the disposal of hazardous substances. Contractor nor its officers, employees, agents or sub-contractors shall obtain any rights to retirement or other benefits, which accrue to City employees.

**27.5 PAVEMENT DAMAGE**

Normal wear and tear on City streets resulting from general vehicular traffic excepted, Contractor shall be responsible for damage to City's driving surfaces, whether or not paved, resulting from the operation of Contractor's vehicles providing Solid Waste collection services within the City. Contractor understands that the exercise of this Agreement may involve operation of its collection vehicles over private roads and streets. Disputes between Contractor and its Customers as to damage to private pavement are civil matters and complaints of damage will be referred to Contractor as a matter within its sole responsibility and as a matter within the scope of Section 19.1 above.

**27.6 PROPERTY DAMAGE**

Any physical damage caused by the negligent or willful acts or omissions of employees of Contractor to public or private property shall be repaired or replaced by Contractor at Contractor's sole expense. Except as provided in Section 19 and Section 27.5, above, this Agreement does not purport to affect, in any way, Contractor's civil liability to any third parties.

**27.7 LAW TO GOVERN; VENUE**

The law of the State of California shall govern this Agreement without regard to any otherwise governing principles of conflicts of laws. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Orange. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the District of California in which the City of La Habra is located.

**27.8 GRATUITIES**

Contractor shall not, nor shall it permit any officer, agent or employee to request, solicit, demand or accept, either directly or indirectly, any gratuity for the collection of Solid Waste required to be collected under this Agreement.

**27.9 ACT AMENDMENTS**

This Agreement is part of City's efforts to comply with the provisions of the California Integrated Waste Management Act of 1989, ("Act") as it from time to time may be amended and as implemented by the regulations of the California Integrated Waste Management Board (or its successor agency) ("Regulations"), as they from time to time may be amended, and the City's Source Reduction and Recycling Element, as it may be amended from time to time. In the event that the Act or other state or federal laws or regulations enacted or amended after this Agreement has been executed prevent, preclude, or eliminate the need

for compliance with one or more provisions of this Agreement, or significantly increase Contractor's costs, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. In the case of an amendment to the laws, which has the effect of eliminating the need for a service provided for in this Agreement and City informs Contractor that City desires to discontinue the service, City and Contractor shall negotiate a reduction in rates. In the case of an amendment to the laws that increases the cost of Contractor's service, Contractor may seek a rate increase to offset the costs directly attributable to the amended or newly enacted provision of law or regulations.

#### 27.10 AMENDMENTS

All amendments to this Agreement shall be in writing, duly executed by the parties. Purported oral amendments shall be void and of no force or effect.

#### 27.11 NOTICES

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or sent by United States certified mail, postage prepaid, return receipt requested, addressed as follows:

To City: City Manager  
City of La Habra  
110 E. La Habra Blvd.  
La Habra, CA 90633

Copy to: Director of Public Works  
City of La Habra  
621 W. Lambert Rd.  
La Habra, CA 90631

Copy to: Jones & Mayer  
La Habra City Attorney  
3777 N. Harbor Blvd.  
Fullerton, CA 92835

To Contractor:  
Senior Vice President  
CR&R Incorporated  
11292 Western Ave.  
Stanton, California 90680

or to such other address as either party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed effective on the date personally served or, if mailed, upon the date of the return receipt.

#### **27.12 CONTRACT ADMINISTRATIVE PROCESSING FEE**

The process of selection of a contractor for the expressed purpose of establishing rights to collect refuse or recyclables is both time consuming and resource depletive. The Contractor shall remit a one-time Administrative Processing Fee to the City. The Administrative Processing Fee is intended to offset the City's anticipated costs of all reasonable and customary direct and indirect administrative expenses including consultants and attorneys, necessary to analyze the contractor's proposal and prepare its contract. Contractor shall pay the City the fee within thirty (30) days of receipt of City's request for payment. For purposes of this Agreement, the fee shall be one hundred thousand dollars (\$100,000.00).

#### **27.13 SAVINGS CLAUSE AND ENTIRETY**

If any non-material provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Agreement.

#### **27.14 JOINT DRAFTING**

This Agreement was drafted jointly by the parties to this Agreement.

#### **27.15 ATTORNEY'S FEES**

In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions herein.

#### **27.16 ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

WITNESS the execution of this Agreement on the day and year written below.

CITY OF LA HABRA

By: Tim Shaw  
Tim Shaw, Mayor

ATTEST:

Tamara D. Mason  
Tamara D. Mason, MMC, City Clerk

APPROVED AS TO FORM:

Richard D. Jones  
Richard D. Jones, City Attorney

CR&R, INCORPORATED

By: Dean Ruffridge  
Mr., Dean Ruffridge, Sr. Vice President

ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ ) ss  
COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me or proved to be the person who executed the within instrument entitled AGREEMENT BETWEEN THE CITY OF LA HABRA ("City") AND \_\_\_\_\_ ("Contractor") FOR INTEGRATED WASTE MANAGEMENT SERVICES, on behalf of Contractor, a private corporation, and acknowledged to me that such execution was pursuant to its bylaws or resolution of its board of directors.

DATE:

CORPORATE SEAL



## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Orange

On December 6, 2018 before me, Laurie J. Swindell, Notary Public  
(insert name and title of the officer)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Laurie J. Swindell (Seal)



## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Orange )

On November 29, 2018 before me, Kim U. Nguyen, Notary Public  
(insert name and title of the officer)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



ACKNOWLEDGMENT

STATE OF \_\_\_\_\_)

( \_\_\_\_\_ ) ss

COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me or proved to be the person who executed the within instrument entitled AGREEMENT BETWEEN THE CITY OF LA HABRA ("City") AND \_\_\_\_\_ ("Contractor") FOR INTEGRATED WASTE MANAGEMENT SERVICES, on behalf of Contractor, a private corporation, and acknowledged to me that such execution was pursuant to its bylaws or resolution of its board of directors.

DATE:

CORPORATE SEAL

**EXHIBIT A**  
**Refuse Rate Schedule**

**Single and Multi-family Residential Cart Service**

| Service Type                        | Monthly Rate |
|-------------------------------------|--------------|
| Regular Service                     | \$21.54      |
| Extra Cart - Refuse (a)             | \$8.27       |
| Extra Cart - Greenwaste/Organic (b) | \$4.96       |
| Optional Premium Walk-up Service    | \$58.65      |
| Optional Special Truck Service Fee  | \$29.33      |
| Organics Processing Charge (c)      | \$4.20       |

Low Income Senior Citizen Discount 10% - (Must use 64-gallon refuse cart)

- (a) in excess of single cart provided in basic service
- (b) in excess of two additional greenwaste/organics carts
- (c) Monthly amount added to rate for regular service and extra greenwaste cart if implemented by City

**Commercial Cart Service**

| Service Type              | Monthly Rate |
|---------------------------|--------------|
| 96-Gallon Commercial Cart | \$44.26      |
| 64-Gallon Commercial Cart | \$36.87      |
| Extra Cart                | \$10.29      |

**Exhibit A  
Commercial Refuse Bin Service**

| Container Size | Pickups per Week |          |          |          |          |          |
|----------------|------------------|----------|----------|----------|----------|----------|
|                | 1                | 2        | 3        | 4        | 5        | 6        |
| 1.5 Cubic Yard | \$105.73         | \$162.38 | \$219.04 | \$284.50 | \$348.69 | \$414.16 |
| 2 Cubic Yard   | \$123.34         | \$198.88 | \$273.17 | \$346.19 | \$420.45 | \$490.96 |
| 3 Cubic Yard   | \$142.25         | \$235.38 | \$320.98 | \$409.13 | \$494.72 | \$582.86 |
| 4 Cubic Yard   | \$144.75         | \$239.57 | \$326.69 | \$416.38 | \$503.50 | \$593.15 |
| 6 Cubic Yard   | \$226.42         | \$372.32 | \$523.25 | \$680.49 | \$838.96 | \$997.45 |

**Commercial Recycling Bin Service  
50% of Refuse Rate**

| Container Size | Pickups per Week |          |          |          |          |          |
|----------------|------------------|----------|----------|----------|----------|----------|
|                | 1                | 2        | 3        | 4        | 5        | 6        |
| 1.5 Cubic Yard | \$52.87          | \$81.20  | \$109.53 | \$142.25 | \$174.34 | \$207.07 |
| 2 Cubic Yard   | \$61.67          | \$99.45  | \$136.59 | \$173.11 | \$210.23 | \$245.49 |
| 3 Cubic Yard   | \$71.13          | \$117.70 | \$160.50 | \$204.57 | \$247.37 | \$291.43 |
| 4 Cubic Yard   | \$72.38          | \$119.79 | \$163.34 | \$208.19 | \$251.75 | \$296.58 |
| 6 Cubic Yard   | \$113.21         | \$186.16 | \$261.63 | \$340.25 | \$419.49 | \$498.72 |

**Front-Load Compactor Bin Service**

| Container Size | Pickups per Week |          |          |            |            |            |
|----------------|------------------|----------|----------|------------|------------|------------|
|                | 1                | 2        | 3        | 4          | 5          | 6          |
| 2 Cubic Yard   | \$308.35         | \$497.21 | \$682.94 | \$865.50   | \$1,051.12 | \$1,227.41 |
| 3 Cubic Yard   | \$355.63         | \$588.46 | \$802.47 | \$1,022.83 | \$1,236.81 | \$1,457.14 |

**Front-Load Compactor Recycling Bin Service  
50% of Regular Front-Load Compactor Rate**

| Container Size | Pickups per Week |          |          |          |          |          |
|----------------|------------------|----------|----------|----------|----------|----------|
|                | 1                | 2        | 3        | 4        | 5        | 6        |
| 2 Cubic Yard   | \$154.18         | \$248.61 | \$341.47 | \$432.75 | \$525.57 | \$613.71 |
| 3 Cubic Yard   | \$177.82         | \$294.24 | \$401.23 | \$511.42 | \$618.41 | \$728.58 |

**Exhibit A**

**Additional Services - Commercial and Multi-family Bin Collection**

| Container Size        | Pickups per Week |         |         |         |          |          |
|-----------------------|------------------|---------|---------|---------|----------|----------|
|                       | 1                | 2       | 3       | 4       | 5        | 6        |
| Locking Lid (per bin) | \$9.23           | \$12.69 | \$17.34 | \$21.92 | \$26.57  | \$30.02  |
| Bin Pushout Service   | \$35.81          | \$49.68 | \$64.71 | \$78.57 | \$92.43  | \$107.47 |
| Stinger Service       | \$35.81          | \$57.79 | \$78.57 | \$99.38 | \$121.36 | \$143.30 |

**CUB Bin Service:**

| Service Type          | Monthly Rate |
|-----------------------|--------------|
| 1 - 3 days            | \$103.93     |
| 7 day rental standard | \$123.22     |
| Each additional day   | \$6.41       |
| Exchange              | \$57.84      |
| Saturday service      | \$39.47      |

**Commercial Foodwaste Collection (AD Processing)**

| Container Size | Pickups per Week |          |          |          |            |            |
|----------------|------------------|----------|----------|----------|------------|------------|
|                | 1                | 2        | 3        | 4        | 5          | 6          |
| 35 gallon cart | \$35.76          | \$63.53  | \$90.67  | \$118.50 | \$145.83   | \$173.60   |
| 64 gallon cart | \$53.98          | \$97.97  | \$141.17 | \$185.23 | \$228.67   | \$272.67   |
| 1.5 Cubic Yard | \$204.33         | \$374.55 | \$544.77 | \$721.12 | \$896.57   | \$1,072.93 |
| 2 Cubic Yard   | \$260.18         | \$487.14 | \$713.23 | \$938.46 | \$1,164.53 | \$1,388.00 |

**Multi-family Greenwaste Collection (AD Processing)**

| Container Size | Pickups per Week |          |          |            |            |            |
|----------------|------------------|----------|----------|------------|------------|------------|
|                | 1                | 2        | 3        | 4          | 5          | 6          |
| 35 gallon cart | \$29.22          | \$50.45  | \$71.05  | \$92.34    | \$113.13   | \$134.37   |
| 64 gallon cart | \$41.82          | \$73.65  | \$104.70 | \$136.61   | \$167.89   | \$199.73   |
| 96 gallon cart | \$54.45          | \$96.89  | \$138.41 | \$180.95   | \$222.73   | \$265.20   |
| 1.5 Cubic Yard | \$148.26         | \$262.41 | \$376.55 | \$496.83   | \$616.21   | \$736.49   |
| 2 Cubic Yard   | \$185.42         | \$337.62 | \$488.95 | \$639.41   | \$790.71   | \$939.42   |
| 3 Cubic Yard   | \$248.42         | \$462.70 | \$671.75 | \$882.55   | \$1,091.60 | \$1,302.41 |
| 4 Cubic Yard   | \$300.01         | \$565.31 | \$825.27 | \$1,087.02 | \$1,346.97 | \$1,608.71 |

**Exhibit A**  
**Rolloff Services**

**Temporary Service**

| Service Description  |  | Total Rate |
|--|--|------------|
| Refuse delivered to landfill -<br>1-3 days box service   | Temporary rate includes up to five tons. Each additional ton in excess of five tons is charged based on the Orange County landfill tipping fee.                  | \$490.30   |
| Refuse delivered to landfill -<br>4-7 days box service   | Temporary rate includes up to five tons. Each additional ton in excess of five tons is charged based on the Orange County landfill tipping fee.                  | \$530.07   |
| Mixed C&D debris delivered to<br>processing facility -<br>1-3 days box service   | Total rate includes up to 5 tons; Mixed C&D exceeding the 5 tons included in the rate requires extra processing and shall be charged the processing tipping fee. | \$694.57   |
| Mixed C&D debris delivered to<br>processing facility -<br>4-7 days box service   | Total rate includes up to 5 tons; Mixed C&D exceeding the 5 tons included in the rate requires extra processing and shall be charged the processing tipping fee. | \$734.33   |
| Clean Concrete / Dirt / Asphalt -<br>1-7 days box service  | Total rate includes cost of all tons. Source separated recyclable material delivered to processing facility.   | \$495.74   |
| Clean Metal -<br>1-7 days box service  | Total rate includes cost of all tons. Source separated recyclable material delivered to processing facility.   | \$462.59   |
| Clean Wood / Green Waste Source<br>separated recyclable material<br>delivered to processing facility -<br>1-7 days box service | Temporary rate includes up to five tons. Each additional ton in excess of five tons is charged based on the Orange County landfill tipping fee.                  | \$495.74   |
| Box rental - each additional day over<br>7 days  |  | \$13.15    |
| Delivery charge  |  | \$71.99    |

**Exhibit A**

**Permanent Service (a)**

| Service Description |                 | Total Rate |
|---------------------|-----------------|------------|
| 40 Yard             | Dump and return | \$247.98   |
| 30 Yard             | Dump and return | \$247.98   |
| 20 Yard             | Dump and return | \$263.05   |
| 10 Yard             | Dump and return | \$263.05   |
| Compactor           | Dump and return | \$320.97   |
| Compactor Recycling | Dump and return | \$220.17   |
| Delivery charge     |                 | \$64.87    |

(a) Permanent Rolloff rates are for the haul only. Additional disposal cost is charged on a per ton basis based on the Orange County landfill tipping fee.

**Tip Fees**

|                                     |  |         |
|-------------------------------------|--|---------|
| County WDA landfill tip fee per ton |  | \$44.97 |
| Processing tip fee per ton          |  | \$85.53 |

**Exhibit A**  
**Other Fees and Charges**

| Service Description   |                           | Monthly Rate |
|---|---------------------------|--------------|
| (a) Restart Fee- The fee for Restarting commercial and roll-off service when a permanent account has been terminated for nonpayment.  | Per Occurrence            | \$20.85      |
| (b) Trip Fee Charge- The trip fee charge when a roll-off is not serviceable.  | Per Trip                  | \$71.83      |
| (c) Return to Service Fee- The return to service fee for two or more calls in a one-month period by a bin customer to return to provide service.  | Per Trip in Excess of One | \$55.60      |
| (d) Extra Dump Fee- An extra dump fee shall be charged per bin for an additional bin pickup when such pickup is requested by a customer.  | Per Trip in Excess of One | \$57.85      |
| (d) Copy Fee- The charge for copies requested by customers.   | Per Copy                  | \$1.13       |
| (e) Bin Exchange Fee- The fee for 2 or more bin exchanges in a 12-month period. Restaurants shall not be charged a bin exchange fee until 4 or more bins are exchanged.                                       | Per Bin                   | \$57.93      |
| (f) Interest Charge-Contractor may charge 1.5% interest per month on any delinquent account for such time as the bill remains unpaid after its due date.  |                           | 1.5%         |
| (g) Late Fee - There will be a minimum fee on any delinquent account.   | Per Account               | \$3.47       |
| (h) Single and Multi-Family Cart customers shall be charged for bulky item pick up exceeding 4 bulky item pickups in a calendar year. Commercial, charge for first item picked up.                            | Exceeding 4 Pickups       | \$39.43      |
| (i) Bulky Additional Item - Cart customers shall be charged for bulky item pick up exceeding 4 bulky items per pickup in a calendar year and bin customers for the second and each additional item picked up. | Exceeding 4 Items         | \$19.71      |
| (j) Overloaded bins- The overloaded bin fee shall be charged each time a bin is filled above _____  | Per Bin                   | \$39.43      |

## Exhibit A

## Other Fees and Charges (Continued)

|  |                |          |
|--|----------------|----------|
| (k) Additional pickup, residential cart service- The additional pickup fee shall be charged to customers who request an additional service pickup for their cart(s) outside of their regular service schedule.               | Per Occurrence | \$13.15  |
| (l) Additional pickup, commercial / multi-family cart service- The additional pickup fee shall be charged to customers who request an additional service pickup for their cart(s) outside of their regular service schedule. | Per Occurrence | \$32.89  |
| (m) Commercial Bin Delivery fee - new customer- The Bin Delivery fee shall be charged for initial delivery of a bin to each customer that sets up a new account.   | Per Occurrence | \$52.63  |
| (n) Non-sufficient funds (NSF) fee for returned checks- Contractor may charge an NSF fee each time a check submitted for payment is returned by the bank due to insufficient funds to cover the payment.                     | Per Occurrence | \$32.89  |
| (o) Compactor Overweight Fee - Special Transport- The compactor overweight fee shall be charged per occurrence when a compactor is filled above the legal weight limit specified by the CA Department of Transportation      | Per Occurrence | \$493.42 |
| (p) Compactor Steam Cleaning Fee- Customers shall be charged this fee for each occurrence when a steam cleaning service is requested for their compactor.  | Per Occurrence | \$179.85 |

**EXHIBIT B**  
**SERVICE SCHEDULE FOR CITY FACILITIES**

| No. | Facility Name  | Location   | Leased* | Service Description  |  |                       |
|-----|--|--|---------|--|--|-----------------------|
|     |  |  |         | Number of Containers   | Size of Containers   | Pickups per Week      |
| 1   | City Hall Administration Building                    | 110 E. La Habra Boulevard                              |         | 1<br>1   | 3 Yard Bin<br>3 Yard Recycle Bin   | 3<br>2                |
| 2   | Library  | 221 E. La Habra Boulevard                              | ✓       | NS (Leased: 1 3yd Bin 2x a week)<br>NS (Leased: 2 96 Gallon Recycle Carts 1x a week)             |  |                       |
| 3   | Public Works Maintenance Yard                        | 621 W. Lambert Road                                    |         | 1<br>2<br>2<br>1<br>1  | 3 Yard Bin<br>3 Yard Recycle Bin<br>10 Yard Rolloff<br>40 Yard Rolloff (GW)<br>40 Yard Rolloff (Trash) | 1<br>1<br>3<br>3<br>3 |
|     | AQMD Monitoring Station                              | 621 W. Lambert Road                                    | -       | NS   | -  | -                     |
| 4   | Community Services                                   | 101 W. La Habra Boulevard                              |         | 2  | 3 Yard Bins  | 5                     |
| 5   | Child Development Center (CDC)                       | 215 N. Euclid Street                                   |         | 1<br>2   | 2 Yard Bin<br>96 gallon carts  | 2<br>1                |
| 6   | Youth Center   | 441 E. Whittier Boulevard                              |         | NS   | -  |                       |
| 7   | Police Department                                    | 150 N. Euclid Street                                   |         | 1<br>1   | 3 Yard Bin<br>3 Yard Recycle Bin   | 3<br>1                |
| 8   | Veterans Hall<br>Historical Museum                   | 217 E. La Habra Boulevard<br>215 E. La Habra Boulevard | ✓       | Shared (Leased: 1 3yd Bin 2x a week)   |  |                       |
| 9   | Gary Center  | 341 Hillcrest Street                                   | ✓       | NS (Leased: 1 3yd Bin 2x a week; Locking)<br>NS (Leased: 1 3yd Recycling Bin 1x a week; Locking) |  |                       |
| 10  | HBIC Building  | 981 N. Euclid Street                                   | ✓       | NS (Leased: 1 3yd Bin 2x a week)   |  |                       |
| 11  | Boys & Girls Club                                    | 1211 Fahringer Way                                     | ✓       | NS (Leased: 1 3yd Bin 4x a week; Scout Service)  |  |                       |
| 12  | Girl Scout Pavilion<br>Girls Activity Building (GAB) | 500 Granada Court                                      |         | 3  | 4 Yard Bins  | 2                     |
| 13  | Head Start Building                                  | 1060 W. Lambert Road                                   | ✓       | Shared (Leased: 1 3yd Bin 2x a week; locking)  |  |                       |
|     | Scout Hut  | 1100 W. Lambert Road                                   |         | 1  | 3 Yard Bin, locking  | 2                     |
|     | Idaho Well   | 710 S. Idaho Street                                    |         | 1  | 3 Yard Recycle Bin, locking  | 2                     |
| 14  | Fire Station #192                                    | 520 S. Harbor Boulevard                                | -       | 1<br>2   | 4 Yard Bin<br>96 Gallon Recycle Carts  | 2<br>1                |
| 15  | Fire Station #191                                    | 850 W. La Habra Boulevard                              | -       | 1<br>2   | 4 Yard Bin<br>96 Gallon Recycle Carts  | 2<br>1                |
| 16  | Fire Station #193                                    | 1000 W. Risner Way                                     | -       | 1<br>2   | 4 Yard Bin<br>96 Gallon Recycle Carts  | 1<br>1                |
| 17  | Fire Station #194                                    | 13540 S. Beach Boulevard,<br>La Mirada, CA 90638       | -       | 1<br>1   | 3 Yard Bin<br>3 Yard Recycle Bin   | 1<br>1                |
| 18  | Brio Park  | 300 S. Euclid Street                                   |         | NS   |  |                       |
| 19  | Constitution Plaza Park                              | 1150 E. Whittier Boulevard                             |         | NS   |  |                       |
| 20  | Corona Park  | 701 W. Fifth Avenue                                    |         | NS   |  |                       |
| 21  | Descanso Park  | 170 N. Fonda Avenue                                    |         | NS   |  |                       |
| 22  | El Centro-Lions Park                                 | 320 E. Erna Avenue                                     |         | 2  | 4 Yard Bins;<br>Locking Service  | 4                     |
| 23  | Esteli Park  | 2251 E. Brookdale Avenue                               |         | 2  | 3 Yard Bins;<br>Locking Service;<br>Scout Service  | 3                     |
| 24  | Guadalupe Park                                       | 381 S. Walnut Street                                   |         | NS   |  |                       |
| 25  | La Bonita Park<br>CDC Preschool                      | 1440 W. Whittier Boulevard                             |         | 3  | 4 Yard Bin;<br>Locking Service   | 3                     |
| 26  | Las Lomas Park                                       | 841 S. Euclid Street                                   |         | 1  | 4 Yard Bin;<br>Locking Service;<br>Scout Service   | 2                     |
| 27  | Leslie Park  | 491 E. Imperial Highway                                |         | NS   |  |                       |

La Habra Solid Waste Agreement

|    |                                  |                          |   |        |  |   |
|----|----------------------------------|--------------------------|---|--------|--|---|
| 28 | Loma Norte Park                  | 2051 E. Brookdale Avenue |   | 1<br>1 | 3 Yard Bin<br>6 Yard Bin<br>Locking Service; | 3 |
| 29 | Loma Verde Park                  | 501 S. Walnut Street     |   | NS     |  |   |
| 30 | Montwood Park                    | 231 E. Montwood Avenue   |   | NS     |  |   |
| 31 | Oeste Park                       | 2300 W. Lambert Road     |   | 2      | 4 Yard Bins;Locking<br>Service;Scout Service | 2 |
| 32 | Old Reservoir Park               | 820 E. Brookdale Street  |   | NS     |  |   |
| 33 | Old Settler's Park               | 100 N. Euclid Street     |   | NS     | -  |   |
| 34 | Osornio Park                     | 1245 N. Hacienda Road    |   | NS     |  |   |
| 35 | Portola Park                     | 301 S. Euclid Street     |   | NS     |  |   |
|    | Children's Museum                | 301 S. Euclid Street     |   | 5      | 96 Gallon Recycle Carts                      | 1 |
|    | Clair Brown (CDC) – Head Start   | 305 S. Euclid Street     |   | 1      | 4 Yard Bin                                   | 3 |
|    | La Habra Child Center- Preschool | 401 S. Euclid Street     |   | 1      | 4 Yard Bin                                   | 3 |
|    | Depot Theater                    | 311 S. Euclid Street     | - | NS     | 4 Yard Bin                                   | 3 |
|    | La Habra Tennis Center           | 351 S. Euclid Street     | - | NS     |  |   |
| 36 | Richard's Park                   | 701 S. Clifton Street    |   | NS     |  |   |
| 37 | San Miguel De Allende Park       | 900 N. Hillside Street   |   | NS     |  |   |
| 38 | Terraza Park                     | 450 S. Dexford Drive     |   | NS     |  |   |
| 39 | Vista Del Valle (Westridge) Park | 1200 W. Risner Way       |   | NS     |  |   |
| 40 | Vista Del Valle Park             | 1600 S. Idaho Street     |   | NS     |  |   |
| 41 | Vista Grande Park                | 1001 W. Las Lomas Drive  |   | NS     |  |   |

NS No Services

- \* This column shows which City owned facilities are being leased out to other organizations. Tenants with "✓" responsible for Services. Tenants with "-" are not responsible for Services. Tenants that share services with City shall split costs accordingly. City shall have final say on which tenants are responsible for services and if necessary, how costs would be split.

**EXHIBIT C  
CITY SPONSORED EVENTS**

- 1) LH Softball opening
- 2) LH Baseball opening
- 3) Eggstravaganza
- 4) Movie Night in the Park (10 each summer)
- 5) Citrus Fair
- 6) LH Football opening
- 7) Father/Son Fishing Tournament
- 8) Concerts in the Park (5 each summer)
- 9) Relay for Life
- 10) Fourth of July Spectacular
- 11) National Night Out
- 12) Corn festival
- 13) Mother/Son BBQ
- 14) Coastal Cleanup Event (Coyote Creek)
- 15) Pumpkin Carving Event
- 16) Police Department Open House
- 17) Veteran's Day
- 18) Tamale Festival
- 19) Coyote Creek Cleanup
- 20) Imperial Highway Brush Abatement Project
- 21) Brush Abatement Projects (8 locations in City)
- 22) Four (4) other events to be determined by City

**EXHIBIT D  
BUS STOP RECEPTACLES**

| No. | Street of Travel |        | Bus Stop Location |                    | Service Per Week | Trash Can              | Shelter Can |
|-----|------------------|--------|-------------------|--------------------|------------------|------------------------|-------------|
| 1   | NB               | Beach  | NS                | Hillsborough Apts. |                  |                        |             |
| 2   | NB               | Beach  | FS                | Westridge Plaza    | 2x/wk/Tu-Th      | Metal                  |             |
| 3   | NB               | Beach  | FS                | Imperial           | 2x/wk/Tu-Th      | Concrete               |             |
| 4   | NB               | Beach  | NS                | Fashion Square     | 2x/wk/Tu-Th      | Plastic                |             |
| 5   | NB               | Beach  | FS                | Lambert            | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 6   | NB               | Beach  | FS                | Merced             | 2x/wk/Tu-Th      | Concrete               |             |
| 7   | NB               | Beach  | FS                | La Habra           | 2x/wk/Tu-Th      | Concrete <b>Double</b> |             |
| 8   | NB               | Beach  | VFS               | La Habra           | 2x/wk/Tu-Th      | Concrete               |             |
| 9   | NB               | Beach  | VNS               | El Portal          | 2x/wk/Tu-Th      | Concrete               |             |
| 10  | NB               | Beach  | NS                | Gregory            | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 11  | NB               | Beach  | VNS               | Whittier           | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 12  | SB               | Beach  | FS                | Whittier           |                  |                        |             |
| 13  | SB               | Beach  | FS                | Gregory            | 2x/wk/Tu-Th      | Wire                   |             |
| 14  | SB               | Beach  | FS                | La Habra           | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 15  | SB               | Beach  | FS                | Merced             | 2x/wk/Tu-Th      | Concrete               |             |
| 16  | SB               | Beach  | FS                | Lambert            | 2x/wk/Tu-Th      | Concrete               |             |
| 17  | SB               | Beach  | OPP               | Fashion Square     | 2x/wk/Tu-Th      | Apartment              |             |
| 18  | SB               | Beach  | FS                | Imperial           | 2x/wk/Tu-Th      | Plastic                |             |
| 19  | SB               | Beach  | NS                | Westridge Plaza    |                  |                        |             |
| 20  | SB               | Beach  | FS                | Hillsborough Apts. |                  |                        |             |
| 21  | NB               | Euclid | FS                | Montwood           | 2x/wk/Tu-Th      | Plastic                |             |
| 22  | NB               | Euclid | NS                | Imperial           | 2x/wk/Tu-Th      | Wire                   |             |
| 23  | NB               | Euclid | NS                | Las Lomas          | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 24  | NB               | Euclid | FS                | Lambert            | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 25  | NB               | Euclid | VFS               | Olive              |                  |                        |             |
| 26  | NB               | Euclid | NS                | La Habra           | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 27  | SB               | Euclid | NS                | Olive              |                  | Wire                   |             |
| 28  | SB               | Euclid | NS                | Las Lomas          | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 29  | SB               | Euclid | NS                | Imperial           | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 30  | SB               | Euclid | NS                | Montwood           | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 31  | SB               | Euclid | FS                | Country Hills      |                  |                        |             |
| 32  | WB               | First  | NS                | Euclid             | 2x/wk/Tu-Th      | Wire                   |             |
| 33  | NB               | Harbor | FS                | Las Palmas         | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 34  | NB               | Harbor | FS                | Las Riendas        | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 35  | NB               | Harbor | FS                | Lambert            | 3x/wk/Mo-We-Fr   | Concrete               | Yes         |
| 36  | NB               | Harbor | NS                | Superior           |                  |                        |             |
| 37  | NB               | Harbor | FS                | La Habra           | 2x/wk/Tu-Th      | Concrete               | Yes         |
| 38  | NB               | Harbor | FS                | Francis            | 2x/wk/Tu-Th      | Terra Cotta            |             |
| 39  | SB               | Harbor | FS                | Whittier           | 3x/wk/Mo-We-Fr   | Terra Cotta            |             |
| 40  | SB               | Harbor | NS                | Francis            |                  |                        |             |

| No. | Street of Travel |          | Bus Stop Location |                | Service Per Week | Trash Can        | Shelter Can |
|-----|------------------|----------|-------------------|----------------|------------------|------------------|-------------|
| 41  | SB               | Harbor   | NS                | Stearns        | 2x/wk/Tu-Th      | Concrete         | Yes         |
| 42  | SB               | Harbor   | FS                | La Habra       | 2x/wk/Tu-Th      | Wire             |             |
| 43  | SB               | Harbor   | NS                | Third          | 2x/wk/Tu-Th      | Terra Cotta      |             |
| 44  | SB               | Harbor   | FS                | Lambert        |                  |                  |             |
| 45  | SB               | Harbor   | FS                | Edwards        | 2x/wk/Tu-Th      | Terra Cotta      |             |
| 46  | SB               | Harbor   | FS                | Imperial       | 3x/wk/Mo-We-Fr   | Terra Cotta (x2) |             |
| 47  | SB               | Idaho    | FS                | Whittier       | 2x/wk/Tu-Th      | Terra Cotta      |             |
| 48  | SB               | Idaho    | OPP               | Highlander     | 2x/wk/Tu-Th      | Terra Cotta      |             |
| 49  | SB               | Idaho    | NS                | Las Lomas      |                  | Wire             |             |
| 50  | WB               | Imperial | FS                | Idaho          | 2x/wk/Tu-Th      | Concrete         |             |
| 51  | WB               | Imperial | FS                | Market Place   | 2x/wk/Tu-Th      | Plastic          |             |
| 52  | WB               | Imperial | NS                | La Habra Hills | 2x/wk/Tu-Th      | Concrete         |             |
| 53  | WB               | Imperial | FS                | Beach          | 3x/wk/Mo-We-Fr   | Wire (x2)        | Yes         |
| 54  | EB               | La Habra | FS                | Beach          |                  |                  |             |
| 55  | EB               | La Habra | NS                | Monte Vista    | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 56  | EB               | La Habra | NS                | Walnut         | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 57  | EB               | La Habra | NS                | Euclid         | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 58  | EB               | La Habra | NS                | Cypress        | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 59  | EB               | La Habra | FS                | S. McPherson   | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 60  | EB               | La Habra | FS                | S. Valencia    | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 61  | EB               | La Habra | NS                | Harbor         | 3x/wk/Mo-We-Fr   | Wire             |             |
| 62  | EB               | La Habra | NS                | Fonda          | 3x/wk/Mo-We-Fr   | Concrete (x2)    |             |
| 63  | WB               | La Habra | FS                | Palm           | 3x/wk/Mo-We-Fr   | Concrete         |             |
| 64  | WB               | La Habra | FS                | Fonda          | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 65  | WB               | La Habra | FS                | Harbor         | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 66  | WB               | La Habra | NS                | N. Valencia    |                  |                  |             |
| 67  | WB               | La Habra | NS                | N. McPherson   | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 68  | WB               | La Habra | FS                | Cypress        | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 69  | WB               | La Habra | FS                | Euclid         | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 70  | WB               | La Habra | NS                | Walnut         | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 71  | WB               | La Habra | FS                | Monte Vista    | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 72  | WB               | La Habra | FS                | Idaho          | 3x/wk/Mo-We-Fr   | Terra Cotta      |             |
| 73  | WB               | La Habra | FS                | El Portal      |                  |                  |             |
| 74  | EB               | Lambert  | FS                | Whitebook      |                  |                  |             |
| 75  | EB               | Lambert  | NS                | Idaho          | 2x/wk/Tu-Th      | Terra Cotta      |             |
| 76  | EB               | Lambert  | FS                | Beach          | 2x/wk/Tu-Th      | Concrete         | Yes         |
| 77  | WB               | Lambert  | FS                | Harbor         |                  |                  |             |
| 78  | WB               | Lambert  | NS                | Cypress        |                  |                  |             |
| 79  | EB               | Whittier | NS                | Rigsby         |                  |                  |             |
| 80  | EB               | Whittier | FS                | Hacienda       | 1x/wk/We         | Concrete         |             |

| No. | Street of Travel |          | Bus Stop Location |             | Service per Week | Trash Can      | Shelter Can |
|-----|------------------|----------|-------------------|-------------|------------------|----------------|-------------|
|     |                  |          |                   |             |                  |                |             |
| 81  | EB               | Whittier | FS                | Idaho       | 2x/wk/Tu-Th      | Concrete       |             |
| 82  | EB               | Whittier | NS                | Monte Vista | 2x/wk/Tu-Th      | Terra Cotta    |             |
| 83  | EB               | Whittier | NS                | Walnut      | 1x/wk/We         | Concrete       |             |
| 84  | EB               | Whittier | NS                | Euclid      | 2x/wk/Tu-Th      | Terra Cotta    |             |
| 85  | EB               | Whittier | FS                | Cypress     | 1x/wk/We         | Round Concrete |             |
| 86  | EB               | Whittier | FS                | Maple       | 2x/wk/Tu-Th      | Concrete       |             |
| 87  | WB               | Whittier | FS                | Harbor      | 1x/wk/We         | Concrete       |             |
| 88  | WB               | Whittier | NS                | Maple       |                  |                |             |
| 89  | WB               | Whittier | FS                | Cypress     | 1x/wk/We         | Terra Cotta    |             |
| 90  | WB               | Whittier | FS                | Euclid      | 1x/wk/We         | Concrete       |             |
| 91  | WB               | Whittier | FS                | Walnut      | 1x/wk/We         | Concrete       |             |
| 92  | WB               | Whittier | NS                | Monte Vista | 2x/wk/Tu-Th      | Concrete       |             |
| 93  | WB               | Whittier | FS                | Beach       | 2x/wk/Tu-Th      | Concrete       |             |
| 94  | WB               | Whittier | NS                | Koopmans    | 2x/wk/Tu-Th      | Concrete       |             |

**EXHIBIT E  
RATE ADJUSTMENT EXAMPLE**

**For a Sample Effective Date of July 1, 2017**

**Table 1 – Calculation of Service Component**

|   |        |
|---|--------|
| Next prior calendar year CPI – 12 month average<br><i>(1/1/15 – 12/31/15)</i> | 225.00 |
| Prior calendar year CPI – 12 month average<br><i>(1/1/16 – 12/31/16)</i>      | 229.50 |
| Percent change in CPI   | 2.00%  |
| 75% of percent change in CPI  | 1.50%  |

**Table 2 – Calculation of Disposal Component**

|   |         |
|---|---------|
| Prior fiscal year tipping fee –<br><i>(7/1/16 – 6/30/17)</i>    | \$25.00 |
| Upcoming fiscal year tipping fee –<br><i>(7/1/17 – 6/30/18)</i> | \$30.00 |
| Percent change in tipping fee                                   | 20.00%  |
| 100% of percent change in tipping fee                           | 20.00%  |

**Table 3 – Calculation of Fuel Component**

|   |       |
|---|-------|
| Next prior calendar year PPI – 12 month average<br><i>(1/1/15 – 12/31/15)</i> | 100.0 |
| Prior calendar year PPI – 12 month average<br><i>(1/1/16 – 12/31/16)</i>      | 105.0 |
| Percent change in PPI   | 5.00% |
| 100% of percent change in PPI   | 5.00% |

**Table 4 – Calculation of Rate Adjustment %**

| Rate Component                          | Relative Weight | Adjustment Factor | Weighted Adjustment Percentage |
|---|-----------------|-------------------|--------------------------------|
| Service                                 | 65%             | 1.50%             | 0.975%                         |
| Disposal                                | 30%             | 20.00%            | 6.000%                         |
| Fuel                                    | 5%              | 5.00%             | 0.250%                         |
| <b>Weighted Rate Adjustment Percent</b> |                 |                   | <b>7.225%</b>                  |

**EXHIBIT F**  
**CITIES WITH SIMILAR SERVICES**  
**For purposes of Section 14.7 Guaranteed Competitive Rates**

The following cities are considered to provide similar services for the purposes of comparing rates under Section 14.7:

| #  | 3-Cart Residential Services | #  | Similar Commercial     |
|----|-----------------------------|----|------------------------|
| 1  | Aliso Viejo                 | 1  | Aliso Viejo            |
| 2  | Anaheim                     | 2  | Anaheim                |
| 3  | Brea                        | 3  | Brea                   |
| 4  | Buena Park                  | 4  | Buena Park             |
| 5  | Cypress                     | 5  | Cypress                |
| 6  | Dana Point                  | 6  | Dana Point             |
| 7  | Fountain Valley             | 7  | Fountain Valley        |
| 8  | Fullerton                   | 8  | Fullerton              |
| 9  | Garden Grove                | 9  | Garden Grove           |
| 10 | Huntington Beach            | 10 | Huntington Beach       |
| 11 | Irvine                      | 11 | La Habra               |
| 12 | La Habra                    | 12 | La Palma               |
| 13 | La Palma                    | 13 | Laguna Beach           |
| 14 | Laguna Beach                | 14 | Laguna Hills           |
| 15 | Laguna Hills                | 15 | Laguna Niguel          |
| 16 | Laguna Niguel               | 16 | Laguna Woods           |
| 17 | Lake Forest                 | 17 | Lake Forest            |
| 18 | Los Alamitos                | 18 | Los Alamitos           |
| 19 | Mission Viejo               | 19 | Mission Viejo          |
| 20 | Orange                      | 20 | Orange                 |
| 21 | Placentia                   | 21 | Placentia              |
| 22 | Rancho Santa Margarita      | 22 | Rancho Santa Margarita |
| 23 | San Juan Capistrano         | 23 | San Juan Capistrano    |
| 24 | San Clemente                | 24 | San Clemente           |
| 25 | Santa Ana                   | 25 | Santa Ana              |
| 26 | Seal Beach                  | 26 | Seal Beach             |
| 27 | Tustin                      | 27 | Stanton                |
| 28 | Villa Park                  | 28 | Tustin                 |
| 29 | Yorba Linda                 | 29 | Villa Park             |
|    |                             | 30 | Westminster            |
|    |                             | 31 | Yorba Linda            |

The following cities are excluded from the rate comparison under Section 14.7:

|   | Residential Services         |   | Commercial Services  |
|---|------------------------------|---|----------------------|
| 1 | Costa Mesa (2-cart system)   | 1 | Costa Mesa (open)    |
| 2 | Laguna Woods (2-cart system) | 2 | Irvine (open)        |
| 3 | Newport Beach (no fee)       | 3 | Newport Beach (open) |
| 4 | Stanton (2-cart system)      |   |                      |
| 5 | Westminster (2-cart system)  |   |                      |