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**EXCLUSIVE FRANCHISE AGREEMENT FOR  
DISCARDED MATERIALS MANAGEMENT FOR  
SINGLE-FAMILY, MULTI-FAMILY, AND  
COMMERCIAL GENERATORS**

**between**

**the County of Orange, California**

**and**

**CR&R Incorporated (CR&R)**

**Franchise Area 9**

**COMMERCIAL AND RESIDENTIAL EXCLUSIVE FRANCHISE AGREEMENT**

**County of Orange  
OC Waste & Recycling  
May 26, 2021**

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***EXCLUSIVE FRANCHISE AGREEMENT FOR DISCARDED MATERIALS  
MANAGEMENT FOR SINGLE-FAMILY, MULTI-FAMILY, AND COMMERCIAL  
GENERATORS***

This Exclusive Franchise Agreement for Discarded Materials Management for Single-Family, Multi-Family, and Commercial Generators (this “Franchise” or “Agreement” or “Franchise Agreement”) is entered into on the 26<sup>th</sup> day of May, 2021, between the County of Orange, a political subdivision of the State of California (hereinafter “County”), and CR&R Incorporated (CR&R) (hereinafter “Franchisee”) (together, the “Parties”).

**RECITALS**

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (AB 939) established a solid waste management process which requires cities and other local jurisdictions to implement source reduction, reuse, and recycling as integrated waste management practices; and

WHEREAS, AB 939 authorizes and requires local agencies to make adequate provisions for Discarded Materials handling within their jurisdictions; and

WHEREAS, Section 40059 of the State Public Resources Code provides that the County may determine aspects of Discarded Materials handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees and nature, location and extent of providing Discarded Materials handling services and whether the services are to be provided by means of partially exclusive or wholly exclusive franchise, contract, license, permit or otherwise, either with or without competitive bidding; and

WHEREAS, the County is obligated to protect the public health and safety of the residents of the unincorporated area of the County of Orange and arrangements by waste haulers for the collection of Discarded Materials should be made in a manner consistent with the protection of public health and safety; and

WHEREAS, the Short-Lived Climate Pollutants Bill of 2016, (SB 1383) establishes, regulatory requirements for jurisdictions, Generators, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets; and

WHEREAS, SB 1383 Regulations require jurisdictions to implement Collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements; and, the County has chosen to delegate some of its responsibilities to the Franchisee, acting as the County’s designee, through this agreement; and

WHEREAS, the County and the Franchisee are mindful of the provisions of the laws governing the safe Collection, Transport, Recycling and Disposal of Solid Waste, including, without limitation, AB 341, AB 939, AB 1826, AB 1594, SB 1383 and the Resource Conservation and Recovery Act (“RCRA”) 42 U.S.C. 9601 *et seq.*; and

WHEREAS, the Franchisee represents and warrants to the County that it has the experience, responsibility, and qualifications to conduct the services detailed herein, and to arrange with residents and other entities in Franchise Area 9 for the safe Collection, Transport, Recycling, and Disposal of Discarded

Materials; and

WHEREAS, the Board of Supervisors of the County determines and finds that the public interest, health, safety and well-being would be served if the Franchisee performs these services for Single-Family, Multi-Family, and Commercial service Customers, as more fully addressed herein; and

WHEREAS, in accordance with Section 40059 of the State Public Resources Code, the Board of Supervisors is empowered to enter into agreements with any person or corporation and to prescribe the terms and conditions of such agreements; and

WHEREAS, Franchisee and County have entered into a Waste Disposal Agreement, dated April 28, 2016 and

WHEREAS, the Parties agree that consideration exists on both sides of this Franchise Agreement in that Franchisee will receive the exclusive franchise to Collect Discarded Materials, as hereinafter defined, in the Franchise Area as described in Appendix 1-A and 1-B hereto, for the duration of this Franchise; and

WHEREAS the County and the Franchisee now desire to enter into this Franchise Agreement regarding Franchise Area 9; and

NOW THEREFORE, in consideration of the respective and mutual covenants and promises therein, and subject to all the terms and conditions hereof, the Parties agree as follows:

## **ARTICLE 1: DEFINITIONS; INTERPRETATION**

**SECTION 1.1. DEFINITIONS.** Whenever any term in this Agreement has been defined by the provisions of Article 2 of the Orange County Code or by Division 30, Part 1, Chapter 2 of the California Public Resources Code shall apply unless the term is otherwise defined in the Agreement, in which case this Agreement shall control. In this Agreement:

“AB 341” means the California Jobs and Recycling Act of 2011 (Chapter 476, Statutes of 2011 [Chesbro, AB 341]), also commonly referred to as “AB 341”, as it may be amended, supplemented, superseded, or replaced from time to time.

“AB 876” means the Assembly Bill approved by the Governor of the State of California on October 8, 2015, which added Section 41821.4 to the Public Resources Code, relating to Solid Waste as amended, supplemented, superseded, or replaced from time to time.

“AB 901” means the Assembly Bill approved by the Governor of the State of California on October 10, 2015, which amended Section 41821.5 of, amended, renumbered and added Section 41821.6 of, and added Sections 41821.7 and 4.821.8 to, the Public Resources Code, relating to Solid Waste as amended, supplemented, superseded, or replaced from time to time.

“AB 939” or the “Act” means the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), also commonly referred to as “AB 939,” as amended, supplemented, superseded, or replaced from time to time.

“AB 1594” means the Assembly Bill approved by the Governor of the State of California on September 28, 2014, which amended Section 40507 and 41781 of the Public Resources Code, relating to Solid Waste as amended, supplemented, superseded, or replaced from time to time.

“AB 1826” means the Organic Waste Recycling Act of 2014 (Chapter 727, Statutes of 2014 modifying Division 30 of the California Public Resources Code), also commonly referred to as “AB 1826”, as amended, supplemented, superseded, or replaced from time to time.

“Affiliate” means any person, corporation or other entity directly or indirectly controlling or controlled by another person, corporation or other entity, or under direct or indirect common management or control with such person, corporation or other entity. As between any two or more persons or entities, when 10% of one is owned, managed, or controlled by another, they are hereunder affiliates of one another.

“Agreement” means this Exclusive Franchise Agreement between County and Franchisee for Collection, transportation, Processing, Recycling, and Disposal of Discarded Materials, and other services related to meeting the goals and requirements of AB 341, AB 876 AB 901, AB 939, AB 1594, AB 1826, and SB 1383, and corresponding regulations, including all appendices and attachments, and any amendments thereto.

“Alternative Daily Cover” or “ADC” has the same meaning as in 27 CCR Section 20690.

“Alternative Intermediate Cover” or “AIC” has the same meaning as in 27 CCR Section 20700.

“Applicable Law” means AB 341, AB 876 AB 901, AB 939, AB 1594, AB 1826, and SB 1383, and corresponding regulations, the Orange County Code, CERCLA, RCRA, CEQA, the Occupational Safety and Health Act, 29 U.S.C. §.651 et seq.; The California Occupational Safety and Health Act of 1973, any Legal Entitlement and any federal or state rule, regulation, requirement, guideline, permit, action,

determination or order of any Governmental Body having jurisdiction, applicable from time to time to the siting, design, permitting, acquisition, construction, equipping, financing, ownership, possession, operation or maintenance of the County Disposal System, the transfer, handling, transportation, Processing, and Disposal of Acceptable Waste, Unacceptable Waste, or any other transaction or matter contemplated hereby (including any of the foregoing which concern health, safety, fire, environmental protection, mitigation monitoring plans and building codes) and any law, rule, regulation, requirement, guideline, permit, action, determination, or order of any Governmental Body having jurisdiction, applicable from time to time to the Franchise Services; the Operating Assets; the siting, design, acquisition, permitting, construction, equipping, financing, ownership, possession, shakedown, testing, operation, or maintenance of any of the Operating Assets; or any other transaction or matter contemplated hereby (including any of the foregoing which concern health, safety, fire, governmental protection, accommodation of the disabled, labor relations, mitigation monitoring plans, building codes, non-discrimination and the payment of minimum wages, and further including the Orange County Code and the County Integrated Waste Management Plan).

“Approved Facility(ies)” means any one of or any combination of the: Designated Disposal Facility, Approved High Diversion Organic Waste Processing Facility, Approved Organic Waste Processing Facility, Approved Source Separated Recyclable Materials Processing Facility, and, Approved Transfer Facility each of which are defined in this Article and listed in Appendix 1-E.

“Approved High Diversion Organic Waste Processing Facility” means the CR&R Anaerobic Digestion Facility at 1706 Goetz, Perris, CA 92570, which is owned and operated by CR&R or the South Yuma County Landfill at 19536 South Avenue 1E, Yuma, AZ, which is owned and operated by CR&R, that is a High Diversion Waste Processing Facility and was Franchisee selected and County approved.

“Approved Organic Waste Processing Facility” means the CR&R Anaerobic Digestion Facility at 1706 Goetz, Perris, CA 92570, which is owned and operated by CR&R or the South Yuma County Landfill at 19536 South Avenue 1E, Yuma, AZ, which is owned and operated by CR&R, that is a High Diversion Waste Processing Facility and was Franchisee selected and County approved.

“Approved Source Separated Recyclable Materials Processing Facility” means the CR Transfer at 11232 Knott Avenue, Stanton, CA, which is owned and operated by CR&R, that is a Source Separated Recyclable Materials Processing Facility and was Franchisee selected and County approved.

“Approved Transfer Facility” means the CR Transfer at 11232 Knott Avenue, Stanton, CA or South County C&D MRF at 31643 Ortega Highway, San Juan Capistrano, CA, which are owned and operated by CR&R, that is a Transfer Facility and was Franchisee selected and County approved.

“Back-Haul” means generating and transporting Organic Waste, Source Separated Recyclable Materials, or other Solid Waste to a destination owned and operated by the Generator using the Generator’s own employees and equipment, or otherwise defined in 14 CCR Section 18982(a)(66)(A).

“Base Rate” means the rate charged for basic collection service of Discarded Materials including in a specified area, as authorized by the County, absent any discounts offered by the hauler.

“Billings” means any and all statements of charges for services rendered in accordance with this Agreement, howsoever made, described or designated by County or Franchisee, or made by others for County or Franchisee, to Customers in the County.

“Bin” means a container or bin having a capacity of one (1) or more cubic yards.



“Blue Container” has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or SSBCOW.

“Board of Supervisors” means the Board of Supervisors of the County of Orange.

“Bulky Items” or “Bulky Waste” means Discarded Materials that cannot and/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, Greenwaste and small pieces of wood limited to one cubic yard of contained material; electronic equipment (including stereos, televisions, computers and monitors, VCRs, microwaves 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. Other items not specifically included or excluded above will be collected provided that they are not more than eight feet in length, four feet in width, or more than 150 pounds. In the event that a question ever arises as to whether a specific item or category of items meets the definition of Bulky Items, County shall be responsible to determine whether said definition shall apply, which determination shall be final.

“California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this Agreement are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR, Division 7, Chapter 12” refers to Title 14, Division 7, Chapter 12 of the California Code of Regulations.)

“CalRecycle” means the State of California’s Department of Resources Recycling and Recovery, and, as this department was structured prior to January 1, 2010, the California Integrated Waste Management Board or CIWMB, as well as any successor agency to CalRecycle.

“Cart” means a plastic Container with a hinged lid and wheels with a capacity of no less than 30 and no greater than 101 gallons, serviced by an automated or semi-automated truck.

“CEQA” means the California Environmental Quality Act, codified at California Public Resources Code Section 21000 *et seq.*, as amended or superseded, and the regulations promulgated thereunder.

“Change in Law” means any of the following events or conditions which has a material and adverse effect on the performance by the Franchisee of the Franchise Services (except for payment obligations):

- (1) The enactment, adoption, promulgation, issuance, modification, or written change in administrative or judicial interpretation thereof on or after the Franchise Date of any Applicable Law, including but not limited to new or increased fees and charges imposed by the State of California, the U.S. Federal government, or a local government related to the collection, handling, transportation, processing, recycling or disposal of Solid Waste;
- (2) The order or judgment of any Governmental Body, on or after the Franchise Date, to the extent that such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the County or of the Franchisee, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute, or be construed as such, a willful or negligent action, error or omission or lack of reasonable diligence.

“Collect” or “Collection” means the act of taking physical possession of Discarded Materials at Single-Family, Multi-Family, or Commercial Premises within the County, and Transporting the Discarded Materials to an Approved or Designated Facility for Processing, Transfer, or Disposal.

“Commercial Edible Food Generators” means Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 17855(a)(4); or as otherwise defined in 14 CCR Section 18982(a)(8).

“Commercial Premises” means any building or site (other than Residential Premises) in the Franchise Area from which any business, service, non-profit, governmental, institutional, commercial, or industrial activity is conducted and from which Discarded Materials are generated, produced, or discarded, including without limitation motels, hotels, recreational vehicle parks, restaurants, professional offices, clubhouses, places of entertainment, manufacturing plants, and private schools. Businesses or business activities operated from Single-Family Dwellings using Bins shall be deemed to be Commercial Premises. Commercial Premises shall not mean any building or site from which horse manure is generated, including but not limited to maintenance and boarding of horses, provided such premises include a residence used for human shelter.

“Commercial Waste” means Discarded Materials generated, produced, or discarded by or at Commercial Premises within the County.

“Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or as otherwise defined in 14 CCR Section 18984.1(a)(1)(A) for three container systems, and 18984.1(a)(1)(C) for two container systems.

“Compostable Plastic(s)” means food-service and food-packaging plastic materials or plastic bags used for collecting organics material that are placed in the Green Container and transported to a compostable material handling operations or facilities, in-vessel digestion operations or other facility provided the organic waste processing facility accepts the material and has provided written notification annually to the County stating that the facility can process and recover that material for compostability, as defined in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

“Compost” has the same meaning as in 14 CCR Section 1789.2(a)(4), which stated, as of the Effective Date of this Agreement that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized Facility.

“Construction and Demolition Waste” or “C&D” means County Discarded Materials generated, produced, or discarded in connection with construction, demolition, landscaping, or general clean-up activities within the Franchise Area, including without limitation concrete, plaster, drywall, Greenwaste, wood scraps, metals, dirt, rock and rubble.

“Container” means a receptacle for temporary storage of Discarded Materials. Containers may include Carts, Bins, Roll-Off Boxes, compactors, or other storage instruments to the extent such Containers are permitted by the County for use for Collection services provided under this Agreement.

“Contract Administrator” has the meaning set forth in Section 4.1(J).

“County” means the County of Orange, California, a political subdivision of the State of California and all the unincorporated area within the boundaries of the County as presently existing, or as such unincorporated area may be modified during the Term of this Agreement.

“County Code” or “OCCO” means the Orange County Codified Ordinances, as the same may be amended, supplemented, or modified from time to time.

“County Disposal System” means the Orange County Waste Disposal System which, at the time of execution of this Franchise Agreement, includes solid waste disposal operations at three active landfills (Olinda Alpha, Frank R. Bowerman and Prima Deshecha); four regional Household Hazardous Waste Collection Centers; as well as services, such as monitoring and other activities, at closed former solid waste stations formerly operated by the County, as appropriate under Applicable Law. Individual elements of the County Disposal System may be expanded or reduced over the course of this Franchise Agreement.

“Customer” means the Person having the care and control of any Franchise Premises in the County Unincorporated Area receiving Discarded Material service from the Franchisee pursuant to the terms of this Agreement.

“Designated Collection Location” refers to the location, at each Franchise Premise where containers of Discarded Materials are customarily placed for collection, all in accordance with Section 4.5 herein.

“Designated Disposal Facility” means the facility designated by the Director to which the Franchisee shall transport County Acceptable Solid Waste and Residual Waste. The Designated Disposal Facility for this Agreement is any of the three active landfills owned and operated by the County of Orange. This includes the Olinda Alpha Landfill in Brea, CA, the Frank R. Bowerman Landfill in Irvine, CA, and the Prima Deshecha Landfill in San Juan Capistrano, CA.

“Director” means the Director of OC Waste & Recycling, or designated representative, or any employee of the County who succeeds to the duties and responsibilities of the Director.

“Discarded Materials” means Bulky Items, Source Separated Recyclable Materials, Source Separated Organic Waste, Food Waste, Gray Container Waste, and Mixed Waste that have been discarded by Generator or Customer. For the purposes of this Agreement, Discarded Materials shall only include the Discarded Materials placed by Generator or Customer for the purpose of Collection by Collector.

“Disposal” means the ultimate disposition of Solid Waste collected by Franchisee or residue from Franchisee’s Processing activities at a permitted Landfill or other permitted Solid Waste Facility.

“Divert” or “Diversion” means to prevent Recyclables and Organic Waste from Disposal at landfill through Source Reduction, Reuse, Recycling, composting, and anaerobic digestion, as provided in Section 41780-41786 of AB 939, as AB 939 may be hereafter amended or superseded.

“Edible Food” means food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food and safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.

“Electronic Waste” or “E-Waste” means electronic equipment and includes, but is not limited to, stereos, televisions, computers and computer monitors, VCRs, cellular phones, fax machines, household copiers, computer printers, other electronic items with electric plugs that are banned from Landfill Disposal,

and other similar items.

“Emergency Services” means Discarded Material collection services, other than those expressly specified under this Franchise, provided during or as a result of an emergency which threatens the public health or safety, as determined by the Director.

“Event of Default” has the meaning set forth in Section 11.1(A).

“Excluded Waste” means Hazardous Substance, Hazardous Waste, infectious waste, , volatile, corrosive, Medical Waste, regulated radioactive waste, and toxic substances or material that Approved/Designated Facility operator(s) reasonably believe would, as a result of or upon acceptance, Transfer, Processing, or Disposal, would be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be Disposed of in Class III landfills or accepted at the Facility by permit conditions, waste that in Franchisee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Franchisee or County to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe Collection, Processing, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public resources Code.

“Facility” means any plant or site, owned or leased and maintained, operated or used by Franchisee for purposes of performing under this Agreement.

“Final Determination” means a judgment, order, or other determination in any Legal Proceeding which has become final after all appeals or after the expiration of all time for appeal.

“Food Recovery” means actions to collect and distribute food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24)

“Food Recovery Organization” means an entity that primarily engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to: 1) A food bank as defined in Section 11378.3 of the Health and Safety Code; 2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code; and, 3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code. If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this agreement.

“Food Recovery Service” means a Person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery; or as otherwise defined in 14 CCR Section 18982(a)(26)

“Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, grease when such materials are Source Separated from other Food Scraps.

“Food-Soiled Paper” means compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

“Food Waste” means Source Separated Food Scraps, Food-Soiled Paper and Compostable Plastics.

Food Waste is a subset of SSGCOW. Edible Food separated for Food Recovery shall not be considered Food Waste.

“Franchise” means this Exclusive Franchise Agreement between County and Franchisee for Collection, transportation, Processing, Recycling, and Disposal of Discarded Materials, and other services related to meeting the goals and requirements of AB 341, AB 876 AB 901, AB 939, AB 1594, AB 1826, and SB 1383, and corresponding regulations, including all appendices and attachments, and any amendments thereto.

“Franchisee” refers to CR&R, Inc. and their permitted successors and assignees.

“Franchise Area” means one of eleven Solid Waste Franchise Areas in the County of Orange, California, which is the subject of this grant of franchise, as set forth in Appendix 1-A and 1-B.

“Franchise Date” means [July 1, 2021]

“Franchise Fee” means Franchisee's share of the costs of franchise administration incurred or projected to be incurred by the County.

“Franchise Fee Due Date” is the 30<sup>th</sup> day after the issuance of the annual fee statement by the Director.

“Franchise Premises” means the Residential Premises, Commercial Premises, or both, for which the Franchisee is authorized to provide Franchise Services.

“Franchise Services” means all of the duties and obligations of the Franchisee hereunder.

“Franchise Year” means a twelve-month period beginning on July 1 of each year and ending on the following June 30 each year during the Term of this Agreement.

“Generator” means any Person whose act first causes Discarded Materials to become subject to regulations under Orange County Code of Ordinances Title 4 Division 3 Article 2 or under federal, State or local regulations, or other Applicable Law.

“Governmental Body” means any federal, state, county, city or regional legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court or other body, or any officer thereof acting within the scope of their authority.

“Gray Container” has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and Collection of Gray Container Waste or Mixed Waste.

“Gray Container Waste” means Solid Waste that is collected in a Gray Container that is a part of a three-Container Organic Waste Collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b) or as otherwise defined in 14 CCR Section 17402(a)(6.5). For the purposes of this Agreement, Gray Container Waste includes carpet and textiles.

“Green Container” has the same meaning as in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and Collection of SSGCOW.

“Greenwaste” means grass, lawn clippings, shrubs, plants, weeds, small branches and other forms of Organic Waste generated from landscapes or gardens, separated from other Discarded Materials.

“Gross Revenues” means Franchisee’s gross receipts attributable to all services performed in the Franchise Area in accordance with this Franchise Agreement for the immediately preceding calendar year.

“Hauler Route” means the designated itinerary or sequence of stops for each segment of the County’s Collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

“Hazardous Waste” means (a) any waste which by reason of its quality, concentration, composition or physical, chemical or infectious characteristics may do any of the following: cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a substantial threat or potential hazard to human health or the environment, or any waste which is defined or regulated as a hazardous waste, toxic substance, hazardous chemical substance or mixture, or asbestos, under Applicable Law, as amended from time to time including, but not limited to: (1) the Resource Conservation and Recovery Act and the regulations contained in Title 40 of the Code of Federal Regulations (CFR) Parts 260-281; (2) the Toxic Substances Control Act (15 U.S.C. Sections 2601 *et seq.*) and the regulations contained in 40 CFR Parts 761-766; (3) the California Health and Safety Code, Section 25117 (West 1992 & Supp. 1996); (4) the California Public Resources Code, Section 40141 (West 1996); and (5) future additional or substitute Applicable Law pertaining to the identification, treatment, storage or disposal of toxic substances or hazardous wastes; or (b) radioactive materials which are source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 *et seq.*) and the regulations contained in Title 10 CFR Part 40.

“High Diversion Organic Waste Processing Facility” means a High Diversion Organic Waste Processing Facility as defined in 14 CCR Section 18982(a)(33).

“Household Hazardous Waste” means waste materials determined by CalRecycle, the Department of Toxic Substances Control, the State Water Resources Control Board, or the Air Resources Board to be:

- (1) Of a nature that they must be listed as hazardous according to California statutes and regulations;
- (2) Toxic/ignitable/corrosive/reactive; and
- (3) Carcinogenic/mutagenic/teratogenic

And which are discarded from households as opposed to businesses.

“Incompatible Materials” means human-made inert material, including but not limited to glass, metal, plastic, and also includes Organic Waste for which the receiving end-user, facility, operation, property, or activity is not designed, permitted or authorized to perform Organic Waste recovery activities as defined in 14 CCR Section 18983.1(b), or as otherwise defined by 14 CCR Section 17402(a)(7.5).

“Inerts” means materials such as concrete, soil, asphalt, and ceramics.

“Insurance Requirement” means any rule, regulation, code, or requirement issued by any fire insurance rating bureau or any body having similar functions or by any insurance company which has issued a policy with respect to the Operating Assets or the Franchise Services.

“Landfill” means a “Solid Waste Landfill” defined by Public Resources Code Section 40195.1.

“Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Agreement.

“Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of 14 CCR, Division 7, Chapter 12 and this agreement, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of 14 CCR, Division 7, Chapter 12 and this agreement, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Agreement.

“Legal Proceeding” means every action, suit, litigation, arbitration, administrative proceeding, and other legal or equitable proceeding having a bearing upon this Franchise.

“Liquid Waste” means watered or dewatered sewage or sludges.

“Material Recovery Facility” or “MRF” means a permitted Solid Waste Facility where Solid Wastes or Recyclable Materials are sorted or separated for the purposes of Recycling, processing or composting.

“Medical Waste” means any medical or infectious waste prohibited or restricted under Applicable Law from being received by or disposed at the County Disposal System, including but not limited to, waste capable of producing an infection or pertaining to or characterized by the presence of pathogens, including without limitation certain wastes generated by medical practitioners, hospitals, nursing homes, medical testing labs, mortuaries, taxidermists, veterinarians, veterinary hospitals and medical testing labs, and waste which includes animal wastes or parts from slaughterhouses or rendering plants.

“Mixed Waste” means Mixed Waste Organic Collection Stream and Solid Waste Collected in a Container that is required by 14 CCR Sections 18984.1, 18984.2, or 18984.3 to be transported to a High Diversion Organic Waste Processing Facility.

“Mixed Waste Organic Collection Stream” means Organic Waste Collected in a Container that is required by 14 CCR Sections 18984.1, 18984.2, or 18984.3 to be Transported to a High Diversion Organic Waste Processing Facility.

“Multi-Family Dwelling” means of, from, or pertaining to Residential Premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

“Multi-Family Dwelling Unit” refers to an individual residential unit of the Multi-Family Dwelling.

“Non-Compostable Paper” includes, but is not limited to, paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including, but not limited to, bottles, cans, metals, plastics, and glass, or as otherwise defined in 14 CCR Section

18982(a)(43). Non-Organic Recyclables are a subset of Source Separated Recyclable Materials.

“Operating Assets” means all real and personal property of any kind, which is owned, leased, managed, or operated by or under contract to the Franchisee for providing Franchise Services, including without limitation the Approved Processing Facility, Containers, Vehicles, Transfer Stations, maintenance and storage facilities, administrative facilities, and other equipment, machinery, parts, supplies and tools.

“Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, yard trimmings, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.

“Owner” means the person holding the legal title or having a right to possession of the real property constituting the Franchise Premises to which County Discarded Material collection service is provided or required to be provided hereunder.

“Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51)

“Person” means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, County of Orange, towns, cities, and special purpose districts.

“Performance Assurances” has the meaning set forth in Section 9.8.

“Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, notes pads, writing tablets, newsprint, and other uncoated writing papers, poster, index cards, calendars, brochures, reports, magazines and publications; or as otherwise defined in 14 CCR Section 18982(a)(54).

“Process”, “Processed” or “Processing” means the controlled separation, recovery, volume reduction, conversion, or Recycling of Solid Waste, Source Separated Recyclable Materials, and Source Separated Organic Waste, including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment, or as otherwise defined in 14 CCR Section 17402(a)(20).

“Processing Facility” means any facility, including, but not limited to a MRF, that Processes Discarded Materials.

“Prohibited Container Contaminants” means the following: (i) Discarded Materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the County’s Blue Container; (ii) Discarded Materials placed in the Green Container that are not identified as acceptable SSGCOW for the County’s Green Container; (iii) Discarded Materials placed in the Gray Container that are acceptable source separated Recyclable Materials and/or SSGCOW to be placed in County’s Green Container and/or Blue Container; and (iv) Excluded Waste placed in any Container.

“Property Owner” means the owner of real property, or as otherwise defined in 14 CCR Section 18982(a)(57).



“Rate(s)” means the maximum amount, expressed as a dollar unit, approved by the County that the Franchisee may bill a Customer for providing specified services under this Agreement. A Rate has been established for each individual Service Level and the initial Rates for Rate Period One are presented in Appendix 2. The Rates approved by the County are the maximum Rate that the Franchisee may charge a Customer for a particular Service Level and Franchisee may, in its sole discretion, charge any amount up to and including the maximum Rate approved by the County.

“Rate Period” means a twelve (12) month period, commencing July 1 and concluding June 30.

“Recovered Materials” means the products, excluding Residual Waste, produced by the processing of Recyclable Materials.

“Recyclable Materials” means paper, plastic, glass, metals or other materials having economic value contained within Discarded Materials or Source-Separated Recyclable Materials and may also include any other type of recyclable waste material agreed on by the Parties.

“Recycle”, “Recycled”, or “Recycling” means the process of collecting, sorting, cleansing, treating, reconstituting, or otherwise processing materials that are or would be disposed of in the Disposal System and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

“Refuse” means a form of Solid Waste and shall be regulated as such. Refuse refers specifically to Gray Container waste.

“Remnant Organic Material” means the Organic Waste that is Collected in a Gray Container that is part of the Gray Container Collection stream, or as otherwise defined in 14 CCR 17402(a)(23.5).

“Renewable Natural Gas” or “RNG” means gas derived from Organic Waste that has been diverted from a Landfill and Processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recover Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

“Residential Premises” means Single-Family Dwellings and Multi-Family Dwelling Units lawfully occupied for human shelter. Residential Premises shall also mean any building or site from which horse manure is generated, including but not limited to maintenance and boarding of horses, provided such premises include a residence used for human shelter.

“Residential Waste” means Discarded Waste generated, produced, and/or discarded by or at Residential Premises within the County.

“Residual” or “Residual Waste” means the Solid Waste destined for Disposal, further transfer/processing as defined in 14 CCR Section 17402(a)(30) or 14 CCR Section 17402(a)(31) or transformation which remains after Processing has taken place and is calculated in percent as the weight of Residual divided by the total incoming weight of materials.

“Reuse” or any variation thereof, means the use, in the same, or similar, form as it was produced, of a material which might otherwise be discarded, or as otherwise defined in 14 CCR Section 17402.5(b)(2).

“Reusable Items” means items that are capable of being Reused after minimal Processing. Reusable Items may be Collected Source Separated or recovered through a Processing Facility. Reusable Items may include, but are not limited to, clothing, furniture, and/or sporting equipment.

“Roll-Off Box” means an open or closed top metal Container, roll-top Container, or closed compactor Container serviced by a roll-off truck and with a Container capacity of 10 to 50 cubic yards. Roll-off boxes are also known as drop boxes or debris boxes.

“Routing and Collection System” means the routing and collection system for Discarded Materials which is in effect as of the Franchise Date.

“SB 1383” means Senate Bill 1383, the Short-Lived Climate Pollutants Act of 2016 (Chapter 395, Statutes of 2016), which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emission of short-lived climate pollutants as it may be amended, supplemented, superseded, or replaced from time to time.

“SB 1383 Regulations” or “SB 1383 Regulatory” refers to the Short-Live Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of Regulations of 14 CCR and 27 CCR.

“Scrap Materials” means any materials which are separated by type of Generator thereof from materials which otherwise are discarded or rejected by the Generator as Solid Waste and which are sold or donated by the Generator to a private recycler, scrap dealer, or salvager and recycled. Scrap Materials shall not include any materials which (1) are commingled with Solid Waste, or (2) are not commingled with County Solid Waste, but which are collected by any person other than the Franchisee as part of any transaction or arrangement involving Discarded Materials, irrespective of whether the Generator pays or receives consideration in connection with such transaction or arrangement.

“Self-Hauled Waste” means Discarded Materials hauled by Self-Haulers.

“Self-Hauler” or “Self-Haul” means a Person who hauls Solid Waste, Organic Waste, or Recyclable Materials they have generated to another Person, or as otherwise defined in 14 CCR Section 18982(a)(66). Self-Hauler also includes a Person who Back-Hauls waste. Self-Hauler also includes landscapers.

“Service Level” refers to the number and size of a Customer’s Container(s) and the frequency of Collection service, as well as ancillary services such as lock/unlock service, Container push/pull service, etc.

“Single-Family” or “Single-Family Dwelling” means any Residential Premises with less than five (5) units.

“Single-Family Container” means a container of 110-gallon capacity or less, usually used by a Single-Family Dwelling or a business, for Discarded Materials.

“Solid Waste” means all garbage, solid waste, rubbish, and other materials and substances discarded or rejected as being spent, useless, worthless, or in excess to the Generator thereof at the time of such discard or rejection and which are normally Discarded by or Collected from Residential (Single-Family and Multi-Family), Commercial, industrial, governmental, and institutional establishments, which are acceptable at Class III landfills under Applicable Law, and which are originally discarded by the first Generator thereof and have not been previously processed. Materials shall be deemed “Solid Waste” consistent with the meaning of California Public Resources Code Section 40191, and for purposes of this Agreement shall be regulated as such. Solid Waste includes Organic Waste and Recyclable Materials when they are not source separated, but does not include Source-Separated Organics Waste, Source-Separated Recyclable Materials, Hazardous Waste, Medical Waste, Liquid Waste, Scrap Materials, Construction and Demolition Debris, or Self-Hauled Waste.

“Source Separated” means materials, including commingled Recyclable materials, and Organic Waste that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or Processing those materials for Recycling or Reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the Agreement, Source Separated shall include separation of materials by the Generator, Property Owner, Property Owner’s employee, property manager, or property manager’s employee into different Containers for the purpose of Collection such that Source Separated materials are separated from Gray Container Waste or Mixed Waste and other Solid Waste for the purposes of Collection and Processing.

“Source Separated Blue Container Organic Waste” or “SSBCOW” means Source Separated Organic Waste that can be placed in a Blue Container that is limited to the Collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR Section 18982(a)(43); or as otherwise defined by 14 CCR Section 17402(a)(26.7). The accepted types of SSBCOW and process for modifying the accepted types of SSBCOW are specified in Appendix 1-D.

“Source Separated Green Container Organic Waste” or “SSGCOW” means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding SSBCOW, carpets, Non-Compostable Paper, and textiles, The accepted types of SSGCOW and process for modifying the accepted types of SSGCOW are specified in Appendix 1-D. SSGCOW is a subset of Organic Waste.

“Source-Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and SSBCOW. The accepted types of Source Separated Recyclable Materials and process for modifying the accepted types of Source Separated Recyclable Materials are specified in Appendix 1-D.

“Special Circumstance” means a circumstance which, when occurring, permits, but does not require the Franchisee or the County to seek an adjustment in the Rates for Service. Any such adjustment must be approved by the Board of Supervisors at the recommendation of OC Waste & Recycling.

“Special Service” means a level of Discarded Material collection service in excess of that offered by the Franchisee as its basic level of service, at an additional cost to the Customer, and may include, but is not limited to, backyard pickup, additional Containers, or more frequent collections. “Special Service” does not mean the reasonable accommodation of an individual with a disability. The charge for any special service may be reviewed by the Director and may require a public hearing and the approval of the Board of Supervisors.

“SRRE” means the County's Source Reduction and Recycling Element approved by the CalRecycle, as the Element may be amended from time to time, all in accordance with the Integrated Waste Management Act of 1989 (AB 939) and regulations related thereto, as they may be amended from time to time. Strategies that are required to be implemented by Franchisee are more fully set forth in Appendix 4 contained herein.

"State" means the State of California.

"Subcontractor" means every person (other than employees of the Franchisee) employed or engaged by the Franchisee or any person directly or indirectly in privity with the Franchisee (including every Subcontractor of whatever tier) for any portion of the Franchise Services, whether for the furnishing of labor, materials, equipment, supplies, services, or otherwise.

“Tax” means any tax, fee, levy, duty, impost, charge, surcharge, assessment or withholding, or payment in lieu thereof, and any related interest, penalties, or additions to tax.

“Temporary Roll-Off Box” means a Container rented by a Customer by the week or month for a temporary period or specific project such as yard clean-up or remodeling, provided, however, that Temporary Roll-Off Box does not include Containers used by a Customer for regularly scheduled collection services.

“Tier One Commercial Edible Food Generators” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982: Supermarket, Grocery Store with a total facility size equal to or greater than 10,000 square feet, Food Service Provider, Food Distributor, or Wholesale Food Vendor. If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Agreement.

“Tier Two Commercial Edible Food Generators” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982: Restaurant with 250 or more seats or a total facility size equal to or greater than 5,000 square feet, Hotel with an on-site food facility and 200 or more rooms, Health facility with an on-site food facility and 100 or more beds, Large Venue, Large Event, a State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet, or a local education agency with an on-site food facility. If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Agreement.

“Ton” means a “short ton” of 2,000 pounds, or its metric equivalent.

“Transfer” means the act of transferring Discarded Materials Collected by Contractor from Contractor’s Collection vehicles into larger vehicles at a Transfer Facility for Transport to other Facilities for Processing or Disposing of such materials. Transfer allows for removal of materials excluded or prohibited from handling at the Transfer Facility (e.g., removal of Hazardous Waste).

“Transfer Station” means a Facility that receives Discarded Materials from Collection vehicles and transfers that material to larger vehicles for transport to Landfills and other destinations. Transfer Stations may or may not also include MRFs transferring residual Solid Waste to landfills and Recyclable Materials, including Organic Materials and/or Construction and Demolition Debris, to processors, brokers or end-users.

“Transformation” means incineration of solid waste to produce heat or electricity. Transformation includes incineration, pyrolysis, or distillation. Transformation does not include composting, gasification, or biomass conversion.

“Transport” or “Transportation” means the act of conveying Collected materials from one location to another.

“Uncontrollable Circumstance” means only one or more of the following specified acts, events, or conditions, whether affecting the Operating Assets, the approved Processing Facility, the Designated Disposal Facility, the County, or the Franchisee, to the extent that it materially and adversely affects the ability of the Franchisee to perform any obligation under the Franchise (except for payment obligations), if such act, event, or condition is beyond the reasonable control, and is not also the result of the willful or negligent act, error, or omission or failure to exercise reasonable diligence on the part of the Franchisee; provided, however, that the contesting in good faith or the failure in good faith to contest such action or inaction shall not be construed as willful or negligent action or a lack of reasonable diligence of the

Franchisee:

- (1) An act of God, hurricane, landslide, lightning, earthquake, fire, explosion, flood, sabotage or similar occurrence, acts of a public enemy, extortion, war, blockade or insurrection, riot or civil disturbance, pandemic, or epidemic;
- (2) A Change in Law (as defined herein);
- (3) Preemption of materials or services by a Governmental Body in connection with a public emergency or any condemnation or other taking by eminent domain of any portion of the Operating Assets.
- (4) The first twenty-one (21) days of a strike, work stoppage, or other labor dispute or disturbance occurring with respect to any activity performed or to be performed by the Franchisee or any of the Franchisee's Subcontractors in connection with the Operating Assets or the Franchise Services, provided that the Franchisee has implemented a contingency plan satisfactory to the Director.

It is specifically understood that only the acts or conditions specified above shall constitute Uncontrollable Circumstances. Without limiting the generality of the foregoing, the parties acknowledge that none of the following acts or conditions shall constitute Uncontrollable Circumstances:

- (a) General economic conditions, interest or inflation rates, currency fluctuations or changes in the cost or availability of fuel, commodities, supplies, or equipment;
- (b) Changes in the financial condition of the County, the Franchisee, or any of its Affiliates, or any Subcontractor affecting their ability to perform their obligations;
- (c) The consequences of errors, neglect, or omission by the Franchisee, any of its Affiliates, or any Subcontractor of any tier in the performance of the Franchise Services;
- (d) The failure of the Franchisee to secure patents or licenses in connection with the technology necessary to perform its obligations hereunder;
- (e) Union work rules, requirements, or demands which have the effect of increasing the number of employees employed in connection with the Operating Assets, or otherwise increase the cost to the Franchisee of operating and maintaining the Operating Assets or providing the Franchise Services;
- (f) Any strikes, work stoppages, or other labor disputes or disturbances occurring with respect to any activity performed or to be performed by the Franchisee or any of the Franchisee's Subcontractors in connection with the Operating Assets or the Franchise Services and which last beyond twenty-one (21) days;
- (g) Any failure of any Subcontractor to furnish labor, materials, service, or equipment for any reason;
- (h) Vehicle or equipment failure; or
- (i) Any impact of prevailing wage law, customs, or practices on the Franchisee's construction or operating costs.

“Vehicle” means any truck, rolling stock, or other vehicle used by the Franchisee in connection with the Franchise Services.

“Waste Disposal Agreement” means the Waste Disposal Agreement dated April 28, 2016, between the County and Franchisee regarding the delivery of Solid Waste to the County Disposal System.

**SECTION 1.2. INTERPRETATION.** In this Franchise Agreement, unless the context otherwise requires:

(A) References Hereto. The terms “hereby,” “hereof,” “herein,” “hereunder,” and any similar terms refer to this Franchise upon execution, and the term “hereafter” means after, and the term “heretofore” means before, the date of execution of this Franchise Agreement.

(B) Plurality. Words importing the singular number mean and include the plural number and vice versa.

(C) Headings. The table of contents of any headings preceding the text of the Articles, Sections, and subsections of this Franchise shall be solely for convenience of reference and shall not constitute a part of this Franchise, nor shall they affect its meaning, construction, or effect.

(D) Entire Franchise. This Franchise Agreement contains the entire agreement between the Parties hereto with respect to the transactions contemplated by this Franchise, provided that nothing in this Franchise is intended to supersede the obligations of the parties to the Waste Disposal Agreement, as defined hereunder. In the event that a provision of this Franchise is interpreted as being in conflict with the Waste Disposal Agreement, the Parties hereto agree that the provisions of the Waste Disposal Agreement will prevail. Furthermore, nothing in this Franchise is intended to confer on any person other than the Parties hereto and their respective successors and assigns hereunder any rights or remedies under or by reason of this Franchise.

(E) Reference to Days. All references to days herein are to calendar days, including Saturdays, Sundays, and holidays, except as otherwise specifically provided.

(F) Units of Measure. Weights or volumes described herein may be reported in either metric or U.S. standard terms of measurement, unless state or federal law or regulation specifies the system of measurement to be used.

(G) Counterparts. This Franchise Agreement may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Franchise.

(H) Choice of Law. This Franchise Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California, without reference to conflict of laws provisions. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another venue.

(I) Interpretation. This Franchise Agreement has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Franchise. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in

executing this Franchise Agreement by any other Party hereto or by any person representing them, or both. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Franchise against the Party that has drafted it is not applicable and is waived. The provisions of this Franchise shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Franchise Agreement.

(J) Severability. If any clause, provision, subsection, Section, or Article of this Franchise Agreement shall be determined to be invalid by any court of competent jurisdiction, then the Parties hereto shall:

- (1) Promptly meet and negotiate a substitute for such clause, provision, Section, or Article which shall, to the greatest extent legally permissible, effect the intent of the parties therein;
- (2) If necessary or desirable to accomplish item (1) above, apply to the court having declared such invalidity for a judicial construction of the invalidated portion of this Franchise Agreement;
- (3) Negotiate such changes in, substitutions for or additions to, the remaining provisions of this Franchise as may be necessary in addition to and in conjunction with items (1) and (2) above, to affect the intent of the Parties in the invalid provision. The invalidity of such clause, provision, subsection, Section, or Article shall not affect any of the remaining provisions hereof, and this Franchise Agreement shall be construed and enforced as if such invalid portion did not exist.

Notwithstanding the foregoing, however, the provisions of this Franchise Agreement reserving to the County the right and power to enter into a Franchise Agreement or to designate the Designated Disposal Facility shall not be deemed to be severable from the other provisions hereof. In the event such provisions are held in any Legal Proceeding which is binding upon the County to be null, void, in excess of the County's powers, or otherwise invalid or unenforceable, and the Franchisee as a result thereof utilizes a disposal facility other than the Designated Disposal Facility for Solid Waste, this entire Franchise Agreement shall immediately terminate without any liability by the County to the Franchisee. So long as the Franchisee continues to utilize the Designated Disposal Facility, the County's right to terminate this Franchise under this subsection 1.2.(J) shall not arise.

## **ARTICLE 2: REPRESENTATIONS AND WARRANTIES OF THE FRANCHISEE**

**SECTION 2.1. REPRESENTATIONS AND WARRANTIES.** The Franchisee, by acceptance of this Franchise Agreement, represents and warrants that:

(A) Existence and Powers. The Franchisee is duly organized and validly existing as a corporation under the laws of the State of California, with full legal right, power, and authority to enter into and perform its obligations under this Franchise Agreement.

(B) Due Authorization and Binding Obligation. The Franchisee has duly authorized the execution and delivery of this Franchise Agreement. This Franchise Agreement has been duly executed and delivered by the Franchisee and constitutes the legal, valid, and binding obligation of the Franchisee, enforceable against the Franchisee in accordance with its terms, except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium, and other laws affecting creditors' rights generally.

(C) No Conflict. Neither the execution, nor the performance by the Franchisee of its obligations under this Franchise Agreement (1) conflicts with, violates, or results in a breach of any law or governmental regulations applicable to the Franchisee; or (2) conflicts with, violates, or results in a breach of any term or condition of any judgment, decree, franchise, agreement (including without limitation the certificate of incorporation of the Franchisee), or instrument to which the Franchisee or any Affiliate is a Party or by which the Franchisee or any Affiliate or any of their properties or assets are bound, or constitutes a default under any such judgment, decree, agreement, or instrument.

(D) No Litigation. There is no action, suit, or other proceeding as of the Franchise Date, at law or in equity, before or by any court or governmental authority, pending, or to the Franchisee's best knowledge, threatened against the Franchisee which is likely to result in an unfavorable decision, ruling, or finding which would materially and adversely affect the validity or enforceability of this Franchise or any such agreement or instrument entered into by the Franchisee in connection with the transactions contemplated hereby, or which would materially and adversely affect the performance by the Franchisee of its obligations hereunder or by the Franchisee under any such other agreement or instrument.

(E) No Legal Prohibition. The Franchisee has no knowledge of any law, regulation or ruling from any jurisdiction in effect on the Franchise Date which would prohibit the performance by the Franchisee of this Franchise Agreement and the transactions contemplated hereby.

(F) Information Supplied by the Franchisee. The information supplied by the Franchisee in all submittals made in connection with negotiation and award of this Franchise is correct and complete in all material respects.



### ARTICLE 3: GRANT OF FRANCHISE

**SECTION 3.1. GRANT OF FRANCHISE AND EXCLUSIONS.** Effective from the Franchise Date through June 30, 2031, the Franchise Agreement granted herein shall be exclusive for all Discarded Materials within the Franchise Area 9, as set forth in Appendix 1-A and 1-B.

Franchisee understands that in accordance with Orange County Code, Section 4-3-56, the Franchise Areas of the County, including but not limited to Franchise Area 9, are designated by resolution of the County Board of Supervisors and may be modified by the Board of Supervisors from time to time. In the event of such a modification, the County will provide Franchisee with sixty (60) days' written notice before such modification is affected. If and to the extent of a modification of Franchise Area 9 in accordance with Orange County Code, Section 4-3-56, the Parties agree that such Franchise Area 9, as set forth in Appendix 1-A, shall be modified without the need for approval by each Party to match the modification approved by the Board of Supervisors. Franchisee agrees to continue full and complete performance of all provisions of this Franchise in accordance with the modified Franchise Area.

Notwithstanding anything to the contrary in this Franchise Agreement, Franchisee shall have no Franchise rights for:

(A) Collection of Recyclable Materials from Residential or Commercial Premises, with the permission of the Owner or Generator, provided that the collector and hauler thereof:

(1) Receives no consideration from the person or entity who donated such Recyclable Materials; or

(2) Provides compensation net of collecting, hauling and processing costs, to the Owner or Generator in exchange for Recyclable Materials.

In order to determine the applicability of Section 3.1(A), transactions in which haulers or collectors (other than the Franchisee) would receive compensation from the Owners or Generators (i.e., the collection of solid waste or Recyclable Materials) shall not be combined with transactions in which such haulers or collectors would provide compensation to the Owners or Generators (i.e., the purchase by the hauler or collector of Recyclable Materials); each such transaction shall be considered independently to determine whether to exclude it from the grant of the Franchise pursuant to Section 3.1(A).

(B) Non-Container hauling services incidental to other services to be performed at the premises of a Customer by businesses such as gardeners, landscapers, or tree services.

(C) Non-Container hauling services provided on an irregular and *ad hoc* basis by Bulky Waste haulers.

(D) Hauling of Construction and Demolition Waste accumulated in a Temporary Roll-Off Box when such accumulation and hauling is incidental to a project of limited duration on the site.

(E) Hauling of Hazardous Waste, Medical Waste, Liquid Waste, Scrap Materials, Self-Hauled Waste or abandoned and discarded Bulky Waste collection in public areas.

(F) Except as may be subsequently required by Applicable Law, nothing in this Section is intended to limit the lawful donation or sale of recyclable materials which are not Discarded Materials by the Owner or Generator of such materials to any properly-licensed entity.

(G) Edible Food that is collected from a Generator by other Person(s) such as a Person from a Food Recovery Organization or Food Recovery Service, for the purposes of Food Recovery; or that is transported by the Generator to another location(s) such as the location of a Food Recovery Organization, for the purposes of Food Recovery regardless of whether the Generator donates, sells, or pays a fee to the other Person(s) to collect or receive the edible Food from the Generator.

(H) The hauling of byproducts from the processing of food and beverages and use of such material as animal feed if the byproducts originate from agricultural or industrial sources, do not include animal (including fish) processing byproducts, are Source Separated by the Generator of the byproducts, and are not discarded; and if the use as animal feed is in accordance with 14 CCR Section 18983.1(b)(7).

(I) Organic Waste that is composted or otherwise legally managed at the site where it is generated or at a Community Composting site.

**SECTION 3.2. TERM OF FRANCHISE AGREEMENT.** The initial term of this Franchise Agreement is from July 1, 2021, through June 30, 2031. The County and Franchisee may, by mutual agreement, extend the term of the agreement for an additional five (5) years at the end of the initial term. The extension must be agreed upon by both parties prior to January 1, 2030.

**SECTION 3.3. FRANCHISE FEE.** The County has established a Franchise Fee equal to \$300,000 for each year, or portion thereof, during the entire Term of this Agreement, adjusted annually using the method below. This fee will be split among all Franchise Areas. The Franchise Fee is split 50% based on Residential services and 50% based on Commercial services. The Residential Franchise Fee for each Franchise Area is determined by the number of subscribers in each Franchise Area as a percentage of total subscribers across all Franchise Areas. The Commercial Franchise Fee for each Franchise Area is based on the percentage of each Franchisee's annual Gross Receipts that makeup the total annual Gross Receipts for all Franchise Areas. For purposes of this section, Multi-Family Customers who receive Cart service shall be considered Residential subscribers and Multi-Family Customers who receive Bin service shall be considered Commercial. Franchisee must provide annual Gross Receipt information and Residential Subscriber information within forty-five (45) days following the end of each contract year term. County will provide the total amount due for each Franchisee within forty-five (45) days of receiving all annual Gross Receipt information. Franchisee will have forty-five (45) days to pay County their portion of the Franchise Fee after receiving the amount due from the County. Should any such due date fall on a weekend, Holiday, or other day in which the County's business offices are closed, payment shall be due on the first day thereafter in which the County's business offices are open. Franchise Fees shall be accompanied by a statement certified by an officer of Franchisee attesting to the accuracy of the amounts paid and setting forth the basis for their calculation in a manner acceptable to County.

Each July 1, after the first year of the Franchise Agreement, the Franchise Fee will be adjusted by the percentage increase (if any) in the Consumer Price Index, for All Urban Consumers (CPI-U), not seasonally adjusted, all items in Los Angeles - Long Beach - Anaheim, CA (CUURS49ASA0) (if this index becomes unavailable, a similar, mutually agreed upon Index shall be used in its place) as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI-U between each month during the prior contract year term (July-June) period immediately preceding the date of the rate adjustment and the same month in the preceding year. No CPI adjustment shall be negative. No CPI adjustment shall be greater than four percent (4%).

**SECTION 3.4. ASSIGNMENT AND TRANSFER OF FRANCHISE.** This Franchise Agreement shall not be transferred, sold, pledged, hypothecated, leased, or assigned, nor shall any of the rights or privileges herein be transferred, sold, pledged, hypothecated, leased, or assigned, either in whole or in part,

nor shall title hereto or thereto, either legal or equitable, or any right, interest, or property herein or therein, pass to or vest in any person, except the Franchisee, either by action or inaction of the Franchisee, or by operation of law (each a "Transfer"), without the prior written consent of the County Board of Supervisors, which may be withheld or delayed in its sole and absolute discretion, and without the payment by the Franchisee or the successor in interest of a transfer charge equal to 1% of Gross Revenues times the number of years remaining in the Franchise. This fee shall not apply to the Transfers of an affiliate of Franchisee. The Franchisee shall provide advance written notice of any request to assign or transfer this Franchise, and shall provide the County with any information requested by the County in connection with the proposed transfer. The County shall respond to any such request within one hundred twenty (120) days after receipt of any information requested by the County pursuant to the preceding sentence. The Franchisee acknowledges that, prior to approving such a transfer, the County must find that such a transfer is in the best interests of the public health, safety, and general welfare. Any attempt by the Franchisee to effectuate any of the foregoing without such consent of the County shall be null and void, and any effectuation of any of the foregoing without such consent of the County shall constitute an Event of Default resulting in the immediate termination of this Franchise as provided in Section 11.1(A) hereof.

(A) Imposition of Conditions. The County may impose conditions and restrictions on any approval it may elect to give of any transactions described in this Franchise, including without limitation conditions on payment of any costs set forth in Section 3.5, and amendments to this Franchise.

(B) Maintenance of Corporate Existence. The Franchisee covenants that, during the term of this Franchise, it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not take any other action which would materially impair the ability of the Franchisee to perform the Franchise Services. Failure to comply with this Section will constitute an Event of Default. The Franchisee shall file a statement of ownership and management at such times as may be requested by the Director, and shall verify the same as being true under penalty of perjury.

(C) Consolidation, Merger, Sale, Transfer and Change in Control. Consolidation or merger of the Franchisee with or into another entity shall constitute an assignment of this Franchise and any such assignment requires written approval of the Director, which may be withheld or delayed in its sole and absolute discretion.

**SECTION 3.5. PAYMENT OF COSTS OF REVIEW BY FRANCHISEE.** If the Franchisee requests the consent of the County for any transaction described in Section 3.4 hereof, the Franchisee shall reimburse the County for all reasonable costs and expenses incurred by the County in reviewing, examining, and analyzing the request, including all direct and indirect administrative expenses of the County and consultants' and attorneys' fees and expenses. Bills shall be supported with evidence of the expense or cost incurred. The Franchisee shall pay such bills within thirty (30) days of receipt.

### **SECTION 3.6. COUNTY'S RIGHT TO DIRECT CHANGES.**

(A) General. County may direct Franchisee to perform additional services (including new Diversion programs, etc.) or modify the manner in which it performs existing services or bills for services. Pilot programs and innovative services which may entail new Collection methods, and different kinds of services and/or new requirements for Waste Generators are included among the kinds of changes which County may direct. Franchisee acknowledges that State law may increase the Diversion requirement during the term of this Agreement and Franchisee agrees to propose services to meet such Diversion requirements. Franchisee shall be entitled to an adjustment in its compensation for providing such additional or modified services, if Franchisee demonstrates that its cost of service would increase, as set forth in Sections 3.6(B) and 3.6(C). County may utilize cost components included in the Franchisee's Proposal in calculating equitable rate adjustments. If County and Franchisee cannot agree on compensation for new or additional services, then County may contract with other parties for such services, which shall be considered exempt from the

exclusivity provisions of Section 3.1.

(B) New Diversion Programs. Franchisee shall present, within sixty (60) days of a request to do so by County, a proposal to provide additional or expanded Diversion services. The proposal shall contain a complete description of the following:

- (1) Collection methodology to be employed (equipment, manpower, etc.).
- (2) Equipment to be utilized (vehicle number, types, capacity, age, etc.).
- (3) Labor requirements (number of employees by classification).
- (4) Type(s) of Containers to be utilized.
- (5) Type(s) of material to be Collected.
- (6) Provision for program publicity/education/marketing.
- (7) Projection of the annual financial results of the program's operations in an operating statement format including documentation of the key assumptions underlying the projections and the support for those assumptions.
- (8) Any other information reasonably requested by the County.

(C) County's Right to Acquire Services. Franchisee acknowledges and agrees that County may permit other Persons besides Franchisee to provide additional Discarded Material Collection services not otherwise contemplated under this Agreement. If pursuant to Sections 3.6(A) and 3.6(B), Franchisee and County cannot agree on terms and conditions of such services within ninety (90) days from the date when County first requests a proposal from Franchisee to perform such services, Franchisee acknowledges and agrees that County may permit Persons other than Franchisee to provide such services.

## ARTICLE 4: COLLECTION SERVICES

### SECTION 4.1. GENERAL SERVICES.

(A) Overall Performance Obligations. The scope of services to be performed by Franchisee pursuant to this Agreement shall include furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform all requirements of the Agreement. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve the Franchisee of the duty to furnish all others, as may be required, whether enumerated or not. The scope of services to be performed by Franchisee pursuant to this Agreement shall be accomplished in a manner so that Customers are provided reliable, courteous, and high-quality Collection services and other services described in this Agreement at all times. The enumeration of, and specification of the requirements for, particular aspects of service quality shall not relieve Franchisee of the duty of accomplishing all other aspects in the manner generally provided in this Article for the delivery of services, whether such other aspects are enumerated elsewhere in the Agreement or not. Franchisee shall not knowingly Collect Containers that include Prohibited Container Contaminants.

(B) Collection Data. The Franchisee shall maintain on file at its business premises documentation setting forth its Routing and Collection System; a list of all Franchise Premises in the Franchise Area, organized alphabetically or by address; and the classification of service each receives. This information shall be updated and provided without cost to the County upon request. Customer specific records are subject to audit, inspection, and copying by the County during regular business hours with reasonable advance notice.

(C) Bulky Waste Collections from Residential Premises. If the Franchise Premises include Residential Premises, the Franchisee shall collect and remove Bulky Waste generated at any Residential Premises upon the request of any Customer. Such collection shall occur within seven (7) days of such request. The Franchisee shall provide the first three (3) Bulky Waste Collections in each calendar year free of charge, provided that the number of items collected and so removed does not exceed four (4) for each of the three (3) free Bulky Waste Collections. For any such pickups in excess of the first three (3), the Franchisee shall be entitled to receive compensation from the Customer at a rate as set forth in Appendix 2-A. Multi-Family Dwelling residents shall receive individual notification of the availability of Bulky Waste Collection on a quarterly basis. Each individual Multi-Family Dwelling is entitled to the same service as other Customers, and Franchisee shall provide Bulky Waste service upon request from Multi-Family Dwelling residents, without requiring the property manager or other person named on the Multi-Family Dwelling account to place the order.

(D) Bulky Waste Diversion. Bulky Waste collected by Franchisee, in accordance with this Franchise, may not be delivered to a Designated Disposal Facility until the following hierarchy of diversion efforts has been followed by Franchisee:

- (1) Reuse as is
- (2) Disassemble for reuse or Recycling
- (3) Transport Bulky Items and reusable items to the appropriate Approved Facility for Reuse, Processing
- (4) Transport Organic Waste to the Approved Organic Waste Processing Facility for Processing

(5) Transport Paper Products to the Approved Source Separated Recyclable Materials Processing Facility for Processing

(6) Disposal

Organic Waste collected in the Bulky Item Program must be handled in accordance with SB 1383 Regulations and the Organic Waste Processing requirements of this Agreement.

(E) Annual Community Neighborhood Cleanup Event. Franchisee shall supply one (1) forty (40) yard roll off box per fifty (50) residential customers, not to exceed fifty (50) Bins in Franchise Area per Contract Year, at no additional charge to the County, for County-sponsored neighborhood cleanups. Each cleanup event will last for one day only. Franchisee and County will coordinate the dates and timing of cleanup event or events. Organic Waste collected during these events must be handled in accordance with SB 1383 Regulations and all applicable Organic Waste Processing requirements of this Agreement. Material Collected must be Source Separated and handled in accordance with the Processing requirements of this Agreement or sent to a High Diversion Organic Waste Processing Facility if materials are collected comingled as Mixed Waste.

(F) Disposal of Electronic Waste. Electronic Waste, or “e-waste,” collected by Franchisee in accordance with this Agreement shall not be delivered to a Designated Disposal Facility but shall be diverted by taking this waste to a properly permitted Facility.

(G) Holiday Trees. The Franchisee shall collect all Holiday trees discarded by any Franchise Premises (Including Multiple-Family Dwellings) at the Franchise Premises on the first three (3) regularly scheduled collection days after Christmas Day, or such other days as agreed by the Director and the Franchisee, free of any additional charge to any Customer. Trees over six (6) foot in length must be cut in half by the Customer before being placed out for collection. All tinsel and garland must be removed by the Customer prior to Franchisee pick up. Franchisee shall Transport all Collected Holiday trees to the Approved Organic Waste Processing Facility for Processing. If Holiday trees are placed at the curb for Collection after the agreed upon timeframe, Franchisee may require the Customer to use a bulky item pickup.

(H) Manure. The Franchisee shall collect all horse manure properly discarded at any Franchise Premises. The terms of such Collection services shall be according to the Rate defined in Appendix 2-C.

(I) Special Services. The Franchisee shall have the right, but not the obligation, to provide additional Special Services requested by any Customer which are directly related or ancillary to any of the other Franchise Services authorized hereunder. The nature and terms of any such Special Services shall be negotiated directly with the Customer and compensation therefore shall be paid by the requesting Customer at rates negotiated with the Customer. In the event the Director determines that the rates set by the Franchisee for such Special Services are inappropriate, the Franchisee shall provide the Director with information supporting the level of rate proposed by the Franchisee. Upon receipt and review of such information, the Director may set the rate, which shall become binding on the Franchisee. Notwithstanding the foregoing, the County agrees to adjust the rates for Special Services to reflect any fees or taxes which may be imposed from time to time by the County with respect to such services.

(J) Contract Administrator. The County and the Franchisee each shall designate in writing on or immediately following the Franchise Date a person to transmit instructions, receive information, and otherwise coordinate service matters arising pursuant to this Franchise (“Contract Administrator”). The County's Contract Administrator initially shall be the Director. Either Party may designate a successor or

substitute Contract Administrator at any time by written notice to the other Party.

(K) Cart Overage. Customers may periodically generate more Solid Waste than will fit in the Refuse Cart(s). Customers may contact Franchisee to have extra waste Collected as a Bulky item pickup under Section 4.1(C). Items left adjacent to Carts on regularly scheduled Collection days that have not been scheduled as a Bulky Item pickup, shall be counted as a Bulky Item pickup as described in Section 4.1(C). Franchisee to Collect items and leave a notice on Customer's Refuse Cart notifying the Customer of the proper procedures to schedule a Bulky Item pickup. Franchisee may request that Customers who regularly generate more waste than will fit in their Cart pay for a second Refuse Cart. County will make final determination in event of dispute.

(L) Hauler Route Audit. In addition to other rights of County set forth herein, annually, Franchisee shall conduct an audit of its collection routes in the Franchise Area serviced by Franchisee under this Franchise. The Director shall have the right to select which audit date best serves its needs. In setting these audit dates, the Director shall establish due dates for Franchisee providing routing and account information, and later, the report, to County. Franchisee must complete the route audit within thirty (30) days.

The route audit shall include all matters reasonably requested by the Director, at minimum, the audit shall consist of a written report of an independent physical observation by person(s) other than the route driver of each Customer in the Franchise Area, and, in addition, shall include the following information for each Customer:

For Single-Family and Multi Family Customers:

- Route Number;
- Account Name;
- Account Service Address;
- Route Sequence;
- Number of Residential Customers;
- Breakdown of Single-Family and Multi-Family Dwellings;
- Container Conditions;
- Proper Container color and signage; and,
- Number of Extra Carts (by type of waste stream).

For Commercial Customers:

- Route Number;
- Route Sequence;
- Account Name;
- Account Number;
- Account Service Address;

- Service Level per County Billing System (Quantity, Size, Frequency);
- Service Level per Routing System;
- Container Conditions;
- Proper Container color and signage; and,
- Observed Containers (Quantity and Size).

Within thirty (30) days after the completion of the route audit, Franchisee shall submit to County a written report summarizing the results of the audit. This report shall include:

- Identification of the routes;
- Route map;
- Route Sequences;
- Number of accounts, by route and in total (Residential and Commercial);
- Types of exceptions observed;
- Number of exceptions by type;
- Total monthly service charge (Residential and Commercial).

The report shall include a description of the procedures followed to complete the route audit. This description shall include the names and titles of those supervising the route audits and the name and titles of those performing the observations.

The report shall also include a description of any exceptions and the Franchisee's plans to resolve the exceptions. The results of the audit, and supporting back-up data, shall be available for review by County or its representative.

Information in route audits shall become County property and may be used by to develop a Request for Proposals (RFP) for a new service provider or for other purposes. County may instruct Franchisee when to conduct the audit in order for the results to be available for use in preparation of an RFP or for other County uses. County may also instruct Franchisee to conduct an audit at a time that would produce the most accurate Customer Service information for a new service provider to use in establishing service with Customers.

#### **SECTION 4.2. DISCARDED MATERIALS COLLECTION SERVICE OPERATING REQUIREMENTS.**

(A) Collection Routes and Frequency. The Franchisee shall collect Discarded Materials from the Franchise Premises. The Franchisee shall establish and maintain collection routes in such manner as to provide for the uniform and efficient collection of Discarded Materials from all Franchise Premises on a Monday-through-Friday basis, and on a Monday-through-Saturday basis for Commercial accounts (except for those customers receiving seven (7) days a week service). Sunday service may also be authorized by the Director. Discarded Materials, as defined herein, shall be collected at least one (1) time per week, except that the Franchisee may provide a higher level of service or, as requested by Customer, more frequent collections as a Special Service. Source Separated Recyclable Materials and Source Separated Organic Waste (if applicable) shall be collected at least one (1) time per week.



The Franchisee shall not commingle Franchise collection routes with City waste routes, provided, however, that if it is unfeasible for the Franchisee to keep collection routes separate from City waste routes, then the Franchisee, upon approval by the Director or County Contract Administrator, may commingle collection routes with City waste routes. If the routes are commingled, the Franchisee shall submit to the Contract Administrator a detailed monthly report setting forth the breakdown of tonnage collected from the commingled routes, regarding all jurisdictions within the Franchise Area within thirty (30) days after the end of each month.

(B) Regular Hours of Service. The Franchisee shall schedule no collections or pre-collection activities, including but not limited to staging or queuing of waste collection vehicles, in or near any Residential Premises or Commercial Premises on any day earlier than 7:00 a.m., or later than 7:00 p.m., provided, however, that the Director may change the collection time as required by the needs of the Customers or the Franchisee.

(C) Emergency Service. Collections of Solid Waste necessitated by an emergency which the Director determines is a threat to public health and safety within the Franchise Area will be made by the Franchisee at the direction of the Director. Such Emergency Services may be required outside of the regular collection hours and schedule. To the extent reasonable, and at the request of the Director, the Franchisee will also provide Emergency Services to other unincorporated areas of the County. If the Director requests the Franchisee to provide Emergency Services when another Franchisee fails to provide services required by this Franchise, the Franchisee will use the Franchisee's good faith best efforts to respond to such a request. When directed to provide Emergency Services, Franchisee shall be reimbursed for its reasonable costs in providing such services, or in accordance with another payment arrangement as agreed upon between the Director and the Franchisee. In the event of a natural disaster or declared emergency, Franchisee shall be reimbursed for its reasonable costs in providing such emergency services by the County or other public agency, separate and apart from the rates for Franchise Services provided for under this Franchise

(D) Noise Levels. The Franchisee shall perform the Franchise Services in a manner which is in compliance with the County of Orange Ordinance Title 8, Chapter 8.24.

(E) Holidays. Collection of Discarded Materials shall not be required on the following legal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, except in case of emergency or as otherwise required by the Director. Whenever a regular collection falls on such a holiday, the collection shall be made on the following working day, and collections throughout the County shall become current within one (1) week thereafter. Written notice of this policy shall be provided to Customers upon the initiation of service and at least twice annually. Collection shall not be rescheduled when the holiday falls on a Sunday, unless otherwise agreed to by the County and the Franchisee. Holidays will not count towards any response time requirements placed on the Franchisee. Commercial Service Customers that subscribe to seven-day-per-week collection shall receive collection on the holiday and such service shall not be rescheduled.

#### **SECTION 4.3. CONTAINERS.**

(A) County Regulations. The Director shall approve the number, type, size, color, labels, and other specific physical requirements for Containers if different than those set forth in Appendix 1-C. The Franchisee shall not be required to collect Discarded Materials from Containers which have not been approved by the Director.

(B) General Requirements. After emptying any Container, the Franchisee shall replace the Container in an upright position at the place where such Container was placed for collection. The Franchisee shall handle Containers in a manner that prevents damage or spillage and shall not throw Containers after emptying them. The Franchisee shall repair or replace, at its own expense, any Container

damaged by the Franchisee within five (5) days.

(C) Containers for Single-Family Dwelling Residential Premises. The Franchisee shall supply each Single-Family Dwelling with Containers, which conform to the specifications set forth in Appendix 1-C. The Franchisee shall maintain the Containers in good repair, shall bear the cost of normal wear and tear, and shall replace the Containers as needed. The Franchisee may charge a fee to Customers for whom Containers must be repaired or replaced due to other than normal wear and tear and will notify the Director if such fee has been charged. If repair requires removal of the Container from a Customer's premises, the Franchisee shall supply the Customer with a replacement Container or loaner Container. The Franchisee shall, within seven (7) working days, repair or replace stolen, damaged or dilapidated Containers. The Franchisee shall provide the Containers required pursuant to this Section at its own cost and expense and any such Containers shall constitute Operating Assets.

(D) Containers for Multi-Family Dwelling Residential Premises and Commercial Premises. The Franchisee shall supply each Multi-Family Dwelling and Commercial Premises with one or more Bin or Cart for Solid Waste, Source Separated Recyclable Materials and Source Separated Organic Waste. The size of the Containers supplied to any particular Multi-Family Dwelling and Commercial Premises shall correspond to the service level chosen by such Multi-Family Dwelling and Commercial Premises, provided that the Containers shall also conform to the specifications set forth in Appendix 1-C. The Franchisee shall provide, as an Operating Asset, the Bin required pursuant to this Section at its own cost and expense. At the request of the customer, all Bins shall be cleaned or replaced at a minimum of once a year free of charge. At the Customer's request, Bins may be cleaned or replaced more frequently at a Rate as set forth in Appendix 2-C. Each Bin shall be identified with the Franchisee's name and phone number and be equipped with heavy-duty casters and closeable lids. Each Bin shall be in accordance with current industry standards. The Franchisee shall be responsible for the general maintenance and repair of Bins so provided, and shall institute and maintain an effective program to repair, steam clean, and repaint all such Containers as needed, and shall provide an equivalent Bin as replacement during repairs and maintenance. If repairing, maintenance, steam cleaning, and or repainting is required as a result of abuse, neglect, or misuse on the part of any Customer, the Franchisee may charge the Customer an amount approved by the Director, to compensate for the cost thereof. The Franchisee shall, within seven (7) working days, repair or replace any stolen, damaged or dilapidated Bin.

(E) Ownership of Containers. All Containers for Solid Waste, Recyclable Materials and Source Separated Organic Waste provided by the Franchisee to Customers in accordance with this Franchise Agreement shall remain the property of the Franchisee.

(F) Container Compliance with SB 1383. All Containers for Solid Waste, Recyclable Materials and Organic Waste provided by the Franchisee must meet all requirements required by SB 1383 Regulations and any subsequent laws or regulations.

#### **SECTION 4.4. GENERAL REQUIREMENTS RELATING TO COLLECTION.**

(A) Clean Up; Avoiding Damage to Property. The Franchisee shall cause all spills of Discarded Materials occurring during the collection process to be cleaned up immediately. The Franchisee shall close all gates after making collections and shall avoid crossing private or public planting areas and grounds or jumping over hedges and fences.

(B) Hazardous Waste. The Franchisee acknowledges its obligation to arrange for the disposal of Hazardous Waste which inadvertently comes into its possession or control. The Franchisee agrees to establish all reasonable practices for the screening and elimination of Hazardous Waste from the waste stream, including, but not limited to, the training of personnel, and to revise such practices as necessary to reflect prudent waste screening considered to be good practice in the Solid Waste collection and disposal

industry at the time. In no event will Franchisee dispose or attempt to dispose of any of the following in the County Disposal System: Hazardous Waste; hazardous substances; medical waste; explosives, ordinance, highly flammable substances, and noxious materials and lead-acid batteries (except if delivered in minimal quantities and separated from Discarded Materials); drums and closed Containers; liquid waste, oil, human wastes; machinery and equipment from commercial or industrial sources, such as hardened gears, shafts, motor vehicles or major components thereof, agricultural equipment, trailers, marine vessels and steel cable; hot loads; and any waste which the County Disposal System is prohibited from receiving under Applicable Law.

(C) Employees; Uniform. The Franchisee shall take all steps necessary to ensure that its employees performing collection services conduct themselves in a safe, proper, and workmanlike manner, and that they work as quietly as possible. All such employees shall at all times of employment be dressed in clean uniforms with suitable identification. No employee may remove any portion of their uniform while working.

(D) Improper Loading of Containers. The Franchisee may decline to collect any Discarded Materials that has one or more of the following characteristics:

- (1) Has not been properly loaded into Containers;
- (2) Has been overloaded in Containers by weight or volume, as compared to industry standards provided by the Franchisee and acceptable to the Director;
- (3) Has been compacted in a manner such that Discarded Materials will not, of its own weight, fall out of the Container in which it is placed when such Container is turned upside down; or
- (4) Has been loaded or left for collection in any manner which would prohibit its safe collection.

(E) Record of Non-Collection. When any Discarded Material left for collection is not collected by the Franchisee, the Franchisee shall provide a non-Collection notice to the Customer. The non-Collection notice shall, at a minimum: (1) inform the Customer of the reason(s) for non-Collection; (2) include the date and time the notice was left or issued; (3) describe the premium charge to Customer for Franchisee to return and Collect the Container after Customer corrects the issue, and (4) a telephone number at which the Customer may contact the Franchisee. The non-Collection notice shall include photographic evidence of the violation(s). The Franchisee's notice of non-Collection may be left attached to or adhered to the Generator's Container, or at the Premises' door or gate at the time the violation occurs, or may be delivered by mail, e-mail, text message, or other electronic message. Franchisee shall submit a sample of its non-Collection notice to the County's Contract Administrator for approval prior to implementing use of it with Customers. The Franchisee shall maintain, at its place of business, a logbook listing all such circumstances in which collection is denied. The logbook shall contain the names and/or addresses of the Franchise Premises involved, the date and time of such tagging, the reason for non-Collection, and the date and manner of disposition of each case. The logbook shall be kept so that it may be conveniently inspected by the Director or County Contract Administrator upon request. The log relating to any particular tagging shall be retained for a period of three (3) years following such tagging. Franchisee may record such transactions on digital cameras or other electronic equipment as feasible. Franchisee shall send a report of all information in the logbook to the County on an annual basis. Franchisee may return for Collection and charge for an extra Collection service event ("extra pick-up") per Section 5.6(B)(6).

(F) Discarded Household Hazardous Waste. If the Franchisee finds what reasonably appears to be

Hazardous Waste or Household Hazardous Waste at a Designated Collection Location, the Franchisee, in addition to the procedure outlined in the previous paragraph, shall either:

- (1) Notify the Owner or Generator, if such can be determined, that the Franchisee may not lawfully collect such waste and leave a tag specifying the nearest location available for such appropriate disposal, or
- (2) Follow such other procedure as the Director approves.

In the event of a threat to public health and safety, the Franchisee shall immediately call "911" or make other emergency contact with the local police or fire agency. The Franchisee shall thereafter provide a written report to the Director within one (1) day of such incident.

(G) Fees and Gratuities. The Franchisee shall not, nor shall it permit any agent, employee, or Subcontractor employed by it, to request, solicit, or demand, either directly or indirectly, any compensation for the collection of Discarded Materials or other Franchise Services, except such compensation as is specifically provided for herein.

#### **SECTION 4.5. COLLECTION LOCATIONS.**

(A) General. The Franchisee shall be responsible for the collection of all Discarded materials placed for collection in a legal manner as required or permitted under this Franchise. The Franchisee shall immediately notify the Director of any condition at or near any Designated Collection Location which creates a safety hazard or accessibility problem. Upon authorization by the Director, the Franchisee shall discontinue collection for any such location until the safety hazard or accessibility problem is corrected or make alternative collection efforts if reasonably feasible.

(B) Enclosures. Where the Designated Collection Location is within an enclosure constructed pursuant to the requirements of any public agency having jurisdiction over the design, construction, and location of such enclosures, the Franchisee shall be responsible for the removal and replacement of all Containers placed therein. The Franchisee shall use sufficient care in the handling of such Containers so as to prevent any damage to the enclosure, the enclosure doors, and adjacent facilities or improvements. The Franchisee shall promptly repair at its own expense any such enclosure or adjacent facilities or improvements damaged by the Franchisee. Franchisee is not responsible for normal wear-and-tear of the enclosure. The Director shall resolve any disputes relating to such damage, and the Franchisee agrees to abide by such decision.

**SECTION 4.6. MULTI-FAMILY DWELLING AND COMMERCIAL SOURCE SEPARATED RECYCLABLE MATERIALS COLLECTION.** Franchisee shall provide Recycling collection service to all Customers at Multi-Family Dwelling and Commercial Premises at no additional charge using a Container type mutually agreed upon by the Franchisee and the Customer and in accordance with this agreement. Customer and Franchisee shall mutually agree upon an on-site location at which all Source Separated Recyclable Materials shall be collected. Franchisee shall have a Recycling program whereby it, at a minimum, collects the following Recyclable Materials in Recycling Containers from Customers: aluminum, tin, steel and bi-metal cans, glass and metal containers, PET (plastic #1), HDPE (plastic #2), plastics #3 through #7, newspaper, mixed paper (including, but not limited to, colored paper, paper board, craft paper, office paper, computer paper, telephone books, catalogues, cardboard, cereal boxes, dry food boxes, tab cards, junk mail, and magazines); milk cartons, and drink boxes. Franchisee also agrees to make programs available for all other materials for which it has established markets. Containers must comply with the requirements in Appendix 1-C. Acceptable materials are listed in Appendix 1-D. Franchisee shall Transport the Source Separated Recyclable Materials to the Approved Transfer Facility for Transfer or directly Transport to the Approved Source Separated Recyclable Materials Processing Facility, as specified

in Appendix 1-E.

Franchisee shall visit all new Customers within two weeks of the start of new service and maintain records of such visits. Franchisee shall continue to conduct on-site visits to Multi-Family and Commercial Customers throughout the term of the Agreement to implement and optimize recycling programs for each Customer. A list of new account and ongoing account visits, including all information required above, shall be provided, within thirty (30) days, to the County upon request.

**SECTION 4.7. MULTI-FAMILY DWELLING AND COMMERCIAL ORGANIC WASTE COLLECTION.** Franchisee shall provide a Green Container or Bin to all Customers at Multi-Family Dwelling and Commercial Premises using a Container type mutually agreed upon by the Franchisee and the Customer. All Containers and Bins provided must comply with this Agreement and be approved by the County. Customer and Franchisee shall mutually agree upon an on-site location at which all Source Separated Green Container Organic Waste shall be collected. The cost of the box or Bin shall be in accordance with the approved rate schedule. Containers must comply with the requirements in Appendix 1-C. Acceptable materials are listed in Appendix 1-D. A Food Waste Recycling program must be provided by the Franchisee to Customers no later than January 1, 2022. Franchisee shall Transport the Source Separated Green Container Organic Waste to the Designated/Approved Transfer Facility for Transfer and Transport to the Approved Organic Waste Processing Facility, as specified in Appendix 1-E.

**SECTION 4.8. SINGLE-FAMILY SOURCE SEPARATED RECYCLABLE MATERIAL COLLECTION.** Franchisee shall provide Single-Family Customers with a container for collection of Source Separated Recyclable Materials. Containers must comply with the requirements in Appendix 1-C. Acceptable materials are listed in Appendix 1-D. Franchisee shall Transport the Source Separated Recyclable Materials to the Designated/Approved Transfer Facility for Transfer and Transport to the Approved Source Separated Recyclable Materials Processing Facility, as specified in Appendix 1-E.

Customers may request a second cart, for an additional charge per cart, in accordance with the approved rate schedule (Appendix 2-A).

**SECTION 4.9. SINGLE-FAMILY ORGANIC WASTE COLLECTION.** Franchisee shall provide Single-Family Customers with a Container for collection of Source Separated Green Container Organic Waste. Containers must comply with the requirements in Appendix 1-C. Acceptable materials are listed in Appendix 1-D. A Food Waste Recycling program must be provided by the Franchisee to Customers no later than January 1, 2022. Franchisee shall Transport the Source Separated Green Container Organic Waste to the Designated/Approved Transfer Facility for Transfer and Transport to the Approved/Designated Organic Waste Processing Facility, as specified in Appendix 1-E.

Customers may request a second cart, for an additional charge per cart, in accordance with the approved rate schedule (Appendix 2-A).

**SECTION 4.10. OTHER WASTES.** The Parties acknowledge that this Franchise Agreement is granted only with respect to the Franchise Services and does not include the collection, transportation, processing, or disposal of Hazardous Waste, Medical Waste, Liquid Waste, or Construction and Demolition Waste. If the Franchisee elects to provide any such services with respect to Hazardous Waste, Medical Waste, Liquid Waste or any other waste regulated by the Department of Toxic Substances Control, such haulage shall be done pursuant to a separate agreement, by a separate legal entity separately insured and liable, and according to Applicable Law. The Parties further acknowledge that the provision by the Franchisee of any services not specifically included within the Franchise are excluded from the protection of this Franchise and may be the subject of competition among any and all legally authorized

haulers.

**SECTION 4.11. INTEGRATED WASTE MANAGEMENT ACT (AB 939) COMPLIANCE.** The Franchisee shall provide on a monthly basis all necessary reporting data requested by the County relating to the County's compliance requirements pertaining to AB 939 (as amended hereafter) as it affects the County's Integrated Waste Management Plan. Such report shall be provided to the County within thirty (30) days after the end of each month. The Franchisee shall cooperate in activities requested by the County to measure diversion of Solid Waste from landfills including, but not limited to, providing a location for conducting waste sorting at the Franchisee's facilities, re-routing trucks on a temporary basis to facilitate composition analysis.

The County reserves the right to institute a fee for its costs directly attributable to County compliance with the Integrated Waste Management Act of 1989 (AB 939) as it may be amended or superseded. If instituted, the County may direct that such a fee be collected as a "pass through" to the Franchisee's customers within the Franchise Area.

**SECTION 4.12. SELF-HAUL OPT-OUT.** Notwithstanding any provision to the contrary herein, a Customer, or potential Customer within the Franchise Area may opt-out of services provided under this Franchise, provided that such Customer or potential Customer demonstrates to the satisfaction of the Director that it personally collects all Discarded Materials generated at the premises, removes and conveys such Solid Waste without littering the streets and disposes of such Solid Waste at a fully permitted disposal facility. Self-Haulers must source-separate all Organic Waste generated on site and recycle those materials or take Organic Waste to a High Diversion Organic Waste Processing Facility. Any Customer or potential Customer who opts-out of service must still abide by all applicable laws and regulations, including but not limited to those included for Self-Haulers in SB 1383 and AB 901. The Franchisee shall survey, track, and report to the County, on an annual basis, Generators who opt out of service and provide the County with information on what alternative services those Generators are utilizing to ensure compliance with all laws and regulations.

**SECTION 4.13. COUNTY DESIGNATION OF FACILITIES.** Franchisee agrees that the Board of Supervisors or Director may, upon making a finding of public health, safety, well-being, or benefit, direct Franchisee to deliver any or all Source Separated Recyclable Materials, SSGCOW, Mixed Waste, and/or Gray Container Waste Collected within the County to any type of Designated Facility, as County may designate. Such a change shall be considered a County-directed change in scope and handled in accordance with provisions in Section 4.4. The Residual remaining after Processing, or recovery of Source Separated Recyclable Materials, and SSGCOW shall be subject to the Board of Supervisors authority to direct Disposal at a Disposal Facility designated by the Board of Supervisors. County shall reserve the right to direct such Residual in accordance with the Board of Supervisor's direction in any agreement with the Facility operator of any Transfer Facility or Processing facility where Franchisee delivers Source Separated recyclable Materials, SSGCOW, Mixed Waste, and/or Gray Container Waste. Franchisee agrees to Transport Discarded Materials to the Designated Facility(ies) designated by the Director, commencing no later than fourteen (14) days from the date on which the Franchisee and Director agreed upon a rate adjustment for any such change of designated facility in accordance with Section 10.2.

(A) Designated Facility – Disposal. The Franchisee, without constraint and as a free-market business decision in accepting this Agreement, agrees to use the Designated Disposal Facility for the purposes of Disposal of all Gray Container Waste Collected by the Franchisee under the terms of this Agreement. Such decision by Franchisee in no way constitutes a restraint of trade notwithstanding any change in law regarding flow control limitations or any definitions thereof. Franchisee shall comply with additional requirements related to use of the Designated Disposal Facility pursuant to Section 6.1.

## **ARTICLE 5: PROCESSING AND TRANSFER**

**SECTION 5.1. PROCESSING AND TRANSFER ARRANGEMENTS.** The Franchisee shall make its own processing and transfer arrangements, so long as such arrangements are in full compliance with Applicable Law, subject to the following conditions:

The Director may order the Franchisee to modify or terminate its processing and/or transfer arrangements if:

- (1) The Director determines that such arrangements threaten public health or safety, or
- (2) The Director determines that the County is not adequately protected from liability for the activities of the processing or transfer entities, or
- (3) The Director determines that the diversion levels of the particular facility is commercially unreasonable, or
- (4) The Director determines that a lower cost solution is available that would benefit the rate payers, or
- (5) The Franchisee is disposing of Recovered Materials in a manner which does not result in commercially reasonable diversion credit to the County, or
- (6) The Franchisee is not handling Organic Waste and Recyclable Materials in a manner which constitutes a reduction in Landfill Disposal in accordance with SB 1383 Regulations, or
- (7) The Franchisee is otherwise substantially out of compliance with the requirements of SB 1383 Regulations.

**SECTION 5.2. RECYCLABLE MATERIALS PROCESSING SERVICES.** The Franchisee shall deliver all Collected Source Separated Recyclable Materials to a fully permitted Source Separated Recyclable Processing Facility or a fully permitted Transfer Facility. All expenses related to Recyclable Material Processing and marketing will be the sole responsibility of the Franchisee. The Franchisee shall ensure that the Recyclable Material Collected pursuant to this Agreement is not disposed of in a landfill, except as Residual Waste resulting from Processing. The Approved Source Separated Recyclable Processing Facility can be found in Appendix 1-E. Franchisee agrees to cooperate with County requests to direct material to specified facilities.

**SECTION 5.3. ORGANIC MATERIALS PROCESSING SERVICES.** The Franchisee shall deliver all Collected Source Separated Green Container Organic Waste to the Approved Organic Waste Processing Facility. All expenses related to Source Separated Green Container Organic Waste Processing and marketing will be the sole responsibility of the Franchisee. The Franchisee shall ensure that all Organic Waste Collected pursuant to this Agreement is diverted from the landfill, except as a Residue resulting from Processing. The Approved Organic Waste Processing Facility can be found in Appendix 1-E. Franchisee agrees to cooperate with County requests to direct material to specified facilities.

**SECTION 5.4. FRANCHISEE'S PROFIT OR LOSS FROM SALE OF RECOVERED MATERIALS.** The Franchisee must use its best efforts to sell Recovered Materials. The Franchisee is entitled to all revenues or other consideration derived from its sale of Recovered Materials; conversely, the Franchisee shall bear the entire risk of and have the responsibility of disposing of Recovered Materials.

**SECTION 5.5. TITLE TO RECOVERED MATERIALS.** As between the Parties, the Franchisee has title to and liability for all Recovered Materials, and shall indemnify, defend, and hold harmless the County from any property damage, personal injury, or consequential damages suffered by any person from exposure to or as a result of processing any Recovered Materials or subsequent product made from Recovered Materials based on any theory of liability. The Franchisee shall promptly notify the County of any claim by any person arising out of the marketing, disposal, or reuse of Recovered Materials.

**SECTION 5.6. CONTAMINATION MONITORING PROCEDURES.** This Section presents inspection method(s) for Prohibited Container Contaminants to be used by the Franchisee in conducting contamination monitoring.

(A) Container Inspection Methods.

(1) Option 1. Physical Container Inspections. When Franchisee's Hauler Route personnel dismounts from Collection vehicles to empty a Container, such personnel shall lift the Container lid and observe the contents. Upon finding Prohibited Container Contaminants in a Container, Franchisee shall follow the contamination noticing procedures and contaminated Container handling protocol sets forth in Section 5.6(D).

(2) Option 2. Visual Inspections via On-Board Monitoring System. For Collection vehicles with automated Collection service, the Collection vehicle hopper shall be equipped with a video camera and monitoring system. The Franchisee shall observe, via the hopper video camera and monitoring system, the contents of the Containers as the materials are emptied into the vehicle. Upon finding Prohibited Container Contaminants in the Container, Contract shall follow the contamination noticing procedures and containing Container handling protocols set forth in Section 5.6(D). If the Franchisee determines that the Container again contains Prohibited Container Contaminants upon the next day of service, Franchisee shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Section 5.6(D).

(3) Option 3. Visual Inspections via Remote Monitoring. Franchisee shall install camera equipment in Containers and use a cloud-based software that will enable the Franchisee to monitor and examine the contents of Containers using digital photographic images obtained from the cameras installed in the Containers. The digital images shall be maintained and accessible for examination through the Franchisee's cloud-based software platform. Franchisee will perform regular and frequent remote monitoring of each Container, automatically, manually, or in combination using the remote monitoring system. The Container monitoring system shall capture digital pictures multiple times each day of the contents of the Container to document and visualize various layers of material in the Container. Capturing multiple digital pictures is necessary to detect Prohibited Container Contaminants through the Container. Upon finding Prohibited Container Contaminants in a Container, Franchisee shall follow the contamination noticing procedures and contaminated Container handling protocol sets forth in Section 5.6(D).

(B) Actions upon Identification of Prohibited Container Contaminants.

(1) Record Keeping. The driver or other Franchisee representative shall record each event of identification of Prohibited Container Contaminants in a written log or in the on-board computer system including date, time, Customer's address, type of Container; and maintain photographic evidence. Franchisee shall submit this record to the Franchisee's Customer service department, and Franchisee's Customer service department shall update the Customer's account record to note the event, if the documentation in the on-board computer system did not automatically update the Customer's account record. Franchisee must also upload all information related to Prohibited



Container Contaminants into the County's reporting system on at least a monthly basis.

(2) Identification of Excluded Waste. If Franchisee's personnel observe Excluded Waste in an uncollected Container, the Franchisee's personnel shall issue a non-Collection notice for this Container in accordance with Section 5.6(B)(4) and shall not Collect the Discarded Materials that contain Excluded Waste. Franchisee's personnel shall record that observation in accordance with Section 5.6(B)(1) and immediately inform their route supervisor. The route supervisor shall investigate and initiate applicable action within one (1) Business Day or sooner if the Hazardous Waste may cause immediate danger.

(3) Courtesy Pick-Up Notices. Upon identification of Prohibited Container Contaminants in a Customer's Container, Franchisee shall provide the Customer a courtesy pick-up notice. The courtesy pick-up notification shall: (1) inform the Customer of the observed presence of Prohibited Container Contaminants; (2) include the date and time the Prohibited Container Contaminants were observed; (3) include information on the Customer's requirement to properly separate materials into the appropriate Containers, and the accepted and prohibited materials for Collection in each Container; (4) inform the Customer of the courtesy pick-up of the contaminated materials on this occasion with information that following three (3) instances Franchisee may issue a non-Collection notice; and (5) shall include photographic evidence. Franchisee shall leave the courtesy pick-up notice attached to or adhered to the Generators' contaminated Containers; at the Premises' door or gate; or, may deliver the notice by mail, e-mail, text message, or other electronic message. Franchisee shall Collect the contaminated Container and Transport the material to the appropriate Approved Facility for Processing; or Franchisee may Collect the contaminated materials and Transport the contaminated materials to the appropriate Approved Facility for Disposal.

(4) Non-Collection Notices. Upon identification of Prohibited Container Contaminants in a Container in excess of standards agreed upon by the Parties or Excluded Waste, Franchisee shall provide a non-Collection notice to the Generator. The non-Collection notice shall, at a minimum: (1) inform the Customer of the reason(s) for non-Collection; (2) include the date and time the notice was left or issued; (3) describe the premium charge to Customer for Franchisee to return and Collect the Container after Customer removes the Contamination, and (4) a telephone number at which the Customer may contact the Franchisee. The non-Collection notice shall include photographic evidence of the violation(s). The Franchisee's notice of non-Collection may be left attached to or adhered to the Generator's Container, or at the Premises' door or gate at the time the violation occurs, or may be delivered by mail, e-mail, text message, or other electronic message. Franchisee shall submit a sample of its non-Collection notice to the County's Contract Administrator for approval prior to implementing use of it with Customers.

(5) Communications with Customer. Whenever a Container at the Premises of a Commercial or a Multi-Family Customer is not Collected, Franchisee shall contact the Customer on the scheduled Collection day or within forty-eight (48) hours of the scheduled Collection day by telephone, e-mail, text message, or other verbal or electronic message to explain why the Container was not Collected. Whenever a Container is not Collected because of Prohibited Container Contaminants a Customer service representative shall contact the Customer to discuss, and encourage the Customer to adopt proper Discarded materials preparation and separation procedures.

(6) Franchisee Return for Collection. Upon request from Customer, Franchisee shall Collect Containers that received non-Collection notices per Section 5.6(B)(4) or Section 4.4(E) within one (1) working Day of Customer's request if the request is made at least two (2) Working Days prior to the regularly scheduled Collection Day. Franchisee shall bill Customer for the extra Collection service event ("extra pick-up") at the applicable County-approved Rates only if Franchisee

notifies Customer of the premium Rate for this service at the time the request is made by Customer.

(C) Disposal of Contaminated Materials. If the Franchisee observes Prohibited Contaminants in a Generator's Container(s), Franchisee may Dispose of the Container's contents, provided Franchisee complies with the noticing requirements in Section 5.6(B) above.

(D) Contamination Monitoring. Hauler must monitor contamination using one of the following methods:

(1) Hauler Route Review Option. Commencing on or before January 1, 2022, the Franchisee shall, at its sole expense, conduct Hauler Route reviews for Prohibited Container Contaminants in Collection Containers in a manner that is deemed safe by the Franchisee; is approved by the County; is conducted in a manner that results in all Hauler Routes being reviewed at a minimum annually; and, complies with the requirements of this Section and meet the requirements of 14 CCR Section 1894.5(b).

Franchisee shall conduct Hauler Route reviews that include inspection of the contents of Customers' Collection Containers for Prohibited Container Contaminants in a manner such that the greater of a minimum of five (5) Containers or ten percent (10%) of Containers per container type on each and every Hauler Route are inspected annually. The Containers shall be randomly selected by a method proposed by the Franchisee and approved by the County.

Franchisee shall develop a Hauler Route review methodology to accomplish the above Container inspection requirements and such methodology shall comply with the requirements of 14 CCR Section 18984.5(b). Franchisee shall submit its proposed Hauler Route review methodology for the coming year to the County no later than January 15 of each year describing its proposed methodology for the calendar year and schedule for performance of each Hauler Route's annual review. Franchisee's proposed Hauler Route review methodology shall include not only its plan for Container inspections, but shall also include its plan for prioritizing the inspection of Customers that are more likely to be out of compliance. County and/or CalRecycle will review and approve the proposed methodology. Franchisee may commence with the proposed methodology upon approval.

If the County and/or CalRecycle notifies the Franchisee that the methodology is inadequate to meet the requirements of 14 CCR Section 18984.5(b), Franchisee shall, at its sole expense, revise the methodology and, after obtaining County or CalRecycle approval, conduct additional Hauler Route reviews, increased Container inspections, or implement other changes using the revised procedure. If the Franchisee's proposed methodology has been deemed inadequate by the County, the Franchisee shall, at the expense of the County, revise the methodology and implement the necessary changes using the revised procedure.

The County's Contract Administrator may request, and Franchisee shall accept, modifications to the schedule to permit observation of the Hauler Route reviews by the County. In addition, Franchisee shall provide an e-mail notice to the County's Contract Administrator no less than ten (10) Working Days prior to each scheduled hauler Route review that includes the specific time(s), which shall be within the County's normal business hours, and location(s).

Upon finding Prohibited Container Contaminants in a Container, Franchisee shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Sections 5.6(A), 5.6(B), and 5.6(C).

Franchisee shall maintain records and report to the County, using a method prescribed by the

County, monthly on contamination monitoring activities and actions taken, in accordance with Appendix 6.

(2) Waste Evaluation Option. Commencing on or before January 1, 2022, Franchisee shall, at its sole expense, conduct waste evaluations that comply with the requirements of this Section and meet the requirements of 14 CCR Section 18984.5(c). The County maintains the right to observe, or hire a third party to observe, the waste evaluations. Franchisee shall, no later than January 15 of each calendar year, provide the County with a proposed waste evaluation methodology and a schedule of waste evaluations for the calendar year for review and approval by County. The County's Contract Administrator may request, and Franchisee shall accept modifications to the schedule to permit observation by the County. In addition, Franchisee shall provide an e-mail notice to the County's Contract Administrator no less than ten (10) Working Days prior to each scheduled waste evaluation that includes the specific time(s), which shall be within the County's normal business hours, and location(s) for the waste evaluation.

The Franchisee shall conduct waste evaluations for Prohibited Container Contaminants by sampling the contents of Containers on Hauler Routes in the follow manner: Franchisee shall conduct waste evaluations at least twice per year and the studies shall occur in two distinct seasons of the year.

The Franchisee's waste evaluations shall include samples of Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste, and any other Containers types.

The waste evaluations shall include samples from each Container type served by the Franchisee and shall include samples taken from different areas in the County that are representative of the County's waste stream.

The waste evaluations shall include at least the following minimum number of samples from all the Hauler Routes included in the studies: a) For Hauler Routes with less than 1,500 Generators, the study shall include a minimum of 25 samples; b) For Hauler Routes with 1,500-3,999 Generators, the study shall include a minimum of 30 samples; c) For Hauler Routes with 4,000-6,999 Generators, the study shall include a minimum of 35 samples; and, d) For Hauler Routes with 7,000 or more Generators, the study shall include a minimum of 40 samples.

The Franchisee shall Transport all of the material Collected for sampling to a sorting area at an Approved/Designated Facility, where the presence of Prohibited Container Contaminants for each Container type shall be measured to determine the ratio of Prohibited Container Contaminants present in each material stream by weight. To determine the ratio of Prohibited Container Contaminants, the Franchisee shall use the following protocol: a) The Franchisee shall take one sample of at least 200 pounds from the material Collected from each material stream for sampling. For example, Franchisee shall take a 200-pound sample taken from the combined contents of the SSGCOW Container samples, b) The 200-pound sample shall be randomly selected from different areas of the pile of Collected material for that material stream, c) For each 200-pound sample, the Franchisee shall remove any Prohibited Container Contaminants and determine the weight of Prohibited container Contaminants, d) The Franchisee shall determine the ratio of Prohibited Container Contaminants in the sample by dividing the total weight of Prohibited Container Contaminants by the total weight of the sample, e) all weights shall be recorded in pounds, and f) the facility, scales and weighing process used for the study shall meet the standards in Appendix 6.

If the sampled weight of Prohibited Container Contaminants exceeds twenty-five percent (25%) of the measure sample for any material stream, Franchisee shall:

- a) Notify the County within fifteen (15) Working Days of the waste evaluation;
- b) Within fifteen (15) Working Days of the waste evaluation, either:
  - 1) Notify all Generators on the sampled Hauler Route of their requirement to properly separate materials into the appropriate Containers. The Franchisee may provide this information by placing a written notice on the Generators' Containers or the gate or door of the Premises; and/or by mail, e-mail, or electronic message to the Generators. The format of the warning notice shall be approved by the County; or,
  - 2) Perform a targeted Hauler Route review of Containers on the Hauler Route sampled for waste evaluations to determine the sources of contamination and notify those Generators of their obligation to properly separate materials. The Franchisee may provide this information by placing a written notice on the Generators' Containers or the gate or door of the Premises; and/or by mail, e-mail, or electronic message to the applicable Generators. The format of the warning notice shall be approved by the County.

Upon finding Prohibited Container Contaminants in a Container, Franchisee shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Section 5.6(A) and 5.6(B), which include protocols for non-Collection and Disposal of contaminated materials.

Franchisee shall maintain records and report to the County, using a method prescribed by the County, monthly on contamination monitoring activities and actions taken, in accordance with Appendix 6.

#### **SECTION 5.7. PROCESSING FACILITY TEMPORARY EQUIPMENT OR OPERATIONAL FAILURE WAIVER.**

(A) Notification to the County. The Franchisee, or their Subcontractor (such as a Facility Operator), shall notify the County of any unforeseen operational restrictions that have been imposed upon an Approved Facility by a regulatory agency or any unforeseen equipment or operational failure that will temporarily prevent an Approved/Designated Facility from Processing and recovering Source Separated Recyclable Materials, SSGCOW, or Mixed Waste. The Franchisee or Subcontractor shall notify the County as soon as possible and no later than forty-eight (48) hours from the time of the incident. The notification shall include the following: 1) name of Approved/Designated Facility; 2) the Recycling and Disposal Reporting System Number of the Approved/Designated Facility; 3) date the Approved/Designated Facility became unable to Process Source Separated Recyclable Materials, SSGCOW, or Mixed Waste; 4) description of the operational restrictions that have been imposed upon the Approved/Designated Facility by a regulatory agency or unforeseen equipment failure or operation restriction that occurred; 5) the period of time the Franchisee anticipates the temporary inability of the Approved/Designated Facility to Process Source Separated Recyclable Materials, SSGCOW, or Mixed Waste; 6) Franchisee's proposed action plan to deliver materials to an Alternative Facility for Processing (refer to Appendix 1-E) or Franchisee's request for waiver to deliver Source Separated Recyclable Materials, SSGCOW, or Mixed Waste to the Designated Disposal Facility.

(B) Use of Alternative Facility or Waiver for Disposal of Materials. Upon notification by Franchisee or Subcontractor of an Approved/Designated Facility's inability to Process materials, County shall evaluate the notification and determine if County shall require Franchisee to use an Alternative Facility

or allow the Franchisee to Transport the Source Separated Recyclable Materials, SSGCOW, or Mixed Waste to the Designated Disposal Facility for Disposal on a temporary basis for a time period specified by the County. Upon County's decision, the County shall notify the Franchisee of its requirement to use an Alternative Facility for Processing or to use the Approved Disposal Facility for Disposal, and the period of time that the County will allow the Source Separated Recyclable Materials, SSGCOW, or Mixed Waste to be redirected to the Alternative Facility or Approved/Designated Disposal Facility. Pursuant to 14 CCR Section 18984.13, the approved Disposal period shall not exceed ninety (90) days from the date the Approved/Designated Facility's Processing restriction or failure commenced. In such case, the Franchisee must receive written permission from the County Contract Administrator prior to depositing any Discarded Material in a Landfill.

(C) Record Keeping and Reporting. Franchisee shall maintain a record of any Approved/Designated Facility incidents and report this information to the County in accordance with Appendix 6.

## ARTICLE 6: SOLID WASTE DISPOSAL

### SECTION 6.1. SOLID WASTE DISPOSAL.

(A) Disposal Generally. The Franchisee shall transport and dispose of all Discarded Materials which it collects but does not divert from landfill disposal at the Designated Disposal Facility in accordance with the requirements of this Franchise Agreement, Applicable Law and with the requirements, rules and regulations of the Director. The Franchisee agrees that it shall not dispose of Hazardous Waste, Medical Waste, Liquid Waste, Source Separated Recyclable Materials, Source Separated Green Container Organic Waste or any other waste not included as County Acceptable Solid Waste at the Designated Disposal Facility, except as may be required in emergencies resulting from Uncontrollable Circumstances with the prior written approval of the Director and in compliance with Section 5.7 and Appendix 1-E.

(B) Designated Disposal Facilities. The Director shall have the right during the Term of the Franchise to determine the Designated Disposal Facility, or multiple concurrent Designated Disposal Facilities, in its sole and absolute discretion. The initial Designated Disposal Facilities shall be any of the Orange County landfills: Olinda Alpha, Frank R. Bowerman or Prima Deshecha. The Director shall notify the Franchisee in writing of any changes in the Designated Disposal Facility. See Appendix 1-E for additional details.

(C) Disposal Records. The Franchisee shall keep and maintain such logs, records, manifests, bills of lading or other documents as the Director may deem to be necessary or appropriate to confirm compliance by the Franchisee with this Franchise Agreement and shall retain all weight slips or other call information provided to the Franchisee's drivers. See Appendix 6 for additional details.

(D) Payment of Disposal Fees. The Franchisee shall pay, or make arrangements for the payment of, all disposal fees and other transfer, disposal or processing charges imposed by the County or other entity for the disposal or processing of Solid Waste. The Franchisee acknowledges that disposal or processing costs required to be incurred by the Franchisee were taken into account in the determination of the rates established in this Agreement, and the Franchisee shall not be entitled to any additional compensation from the County or from Customers because of variations in disposal or processing costs except to the extent provided in Section 10.3.

(E) Failure to Transport to Designated Disposal Facility. The Franchisee's failure to properly transport, or cause to be transported, Discarded Materials as described herein is an Event of Default, as described in Section 11.1(A) of this Agreement.

(F) Flow Control Covenant. The Franchisee hereby waives any right which it may possess under Applicable Law to contest on any ground, constitutional, statutory, case law, administrative or otherwise, (a) the right, power, or authority of the County to engage in the practice of legal Solid Waste "flow control," or to enter into or perform obligations under the Waste Disposal Agreement, (b) the enforceability of the Waste Disposal Agreement described in Section 6.1(G), or (c) the right, power, or authority of the County to deliver or cause the delivery of all Solid Waste collected within the Franchise Area to the Designated Disposal Facility in accordance with this Franchise and the "flow control" covenant contained in any proposed or executed Waste Disposal Agreement.

(G) Waste Disposal Agreement. The Franchisee acknowledges that it has entered into a Waste Disposal Agreement with the County (the "Waste Disposal Agreement") and warrants that the Waste Disposal Agreement is in full force and effect as of the date of the Franchise and constitutes a separate and independent obligation of Franchisee with respect to the matters contained therein. Nothing in this Franchise in any way modifies or supersedes the Waste Disposal Agreement.

(H) Legal Challenges to Franchise System. The Franchisee shall use its best efforts to preserve, protect and defend its right to exercise and comply with this Agreement against any challenge thereto, legal or otherwise (including any lawsuits against the Franchisee or the County, whether as plaintiff or defendant), by any person, based upon breach of contract, violation of law or any other legal theory. The Franchisee shall bear the cost and expense of any such legal proceeding or other challenge.

(I) Transponder Usage. The Franchisee agrees to participate in the Department's transponder program. The Franchisee shall identify a contact person that will coordinate with the County Contract Administrator in order to efficiently administer this program. The Franchisee shall have ninety (90) days from the Effective Date to install transponders on all units in their respective fleets with the exception of compactor bins and roll-off boxes; provided, however, that the County may in its discretion require installation of transponders on compactor bins and roll-off boxes on a case by case basis. The Franchisee shall have thirty (30) days to install transponders on any vehicles purchased after the initial installation period. The Franchisee using sub-contractors or other haulers to transport waste to the Designated Facility(ies) shall require them to participate in the transponder program. For purposes of this section, the Franchisee's "fleet" consists of all vehicles the Franchisee uses to transport Discarded Materials to County owned or operated Facility(ies), including, but not limited to, transfer trucks and trailers.

(J) Communication. If requested by the County, the Franchisee shall meet with the County at least once a month to discuss issues related to the interaction of operations between Franchisee and Facility staff including, but not limited to: Traffic flow, vehicle weighing procedures, Hazardous Waste screening and safety policies, receiving hours, and billing and payment of gate fees for delivery of materials.

(K) Transportation to Non-Approved Facilities Prohibited. If Franchisee Transports Discarded Materials to a facility other than an Approved/Designated Facility or an Alternative Facility without prior County approval, Franchisee's failure to comply may result in assessment of Liquidated Damages pursuant to Section 9.3.

## ARTICLE 7: COMPLIANCE

**SECTION 7.1. THE FRANCHISEE'S RESPONSIBILITY FOR IMPLEMENTATION AND COMPLIANCE PLAN.** The Franchisee will implement the Implementation and Compliance Plan set forth in Appendix 4. The Franchisee will indemnify the County for any judgments or penalties assessed against the County as a result of the failure of the Franchisee to fully implement the Implementation and Compliance Plan. The obligations of the Franchisee to implement the Implementation and Compliance Plan under this Section shall continue irrespective of any modifications to the Public Resources Code or any legal challenges or amendments to the County's SRRE or statutes governing the preparation or implementation thereof.

**SECTION 7.2. MINIMUM DIVERSION REQUIREMENTS.** Franchisee shall recycle or divert from landfill disposal fifty percent (50%) of all Discarded Materials collected pursuant to this Franchise. Discarded Materials shall only be considered to have been recycled or diverted under this Franchise Agreement if it is considered to be diversion by the CalRecycle in connection with the County's diversion goals as required by AB 939, SB 1383, and AB 1594. Franchisee shall provide documentation to the County on a quarterly basis and within thirty (30) days of the end of the year stating and supporting that calendar year's diversion programs. This documentation shall be accompanied by any diversion fee due per Section 7.3. Diversion from sources other than Franchisee's collection and diversion efforts (such as source reduction, reuse, or recyclables diverted by solid waste enterprises, collection of materials that are not the subject of this Franchise Agreement, or the efforts of self-haulers) shall not be counted as diversion by Franchisee. Notwithstanding anything to the contrary herein, Transformation of Discarded Materials will not be required to meet the minimum diversion requirements under this Section 7.2 of this Agreement.

**SECTION 7.3. DIVERSION FEES.** The Franchisee shall pay to the County a Diversion Fee for any calendar year, in which the minimum diversion rate of Discarded Materials collected by the Franchisee does not meet or exceed fifty percent (50%) or as otherwise may be required by law; provided that any such fee shall only be assessed against Franchisee by County if Franchisee failed to make a good-faith effort to meet the minimum diversion rate under this agreement. The fee is based upon the diversion rate achieved and the total Residential and Commercial Gross Revenues for the corresponding year, as follows:

Diversion Rate	Diversion Fee as a % of Gross Revenues
0 – 24.9%	5.0%
25% - 29.9%	3.5%
30% - 34.9%	2.0%
35% - 39.9%	1.5%
40% - 44.9%	1.0%
45% - 49.9%	0.5%

Prior to assessing any fee under this Section, County shall provide notice to Franchisee. Upon receipt of such notice, County and Franchisee shall enter into good-faith negotiations to determine whether a fee is appropriate and to discuss and agree upon corrective action measures to be implemented by Franchisee prior to any imposition of fees. Should Franchisee fail to implement the agreed-upon corrective measures, then Franchisee shall pay the fee as set forth in this provision. If due, this fee shall be accompanied by the supporting tonnage data required in Section 7.2 and the Gross Revenues upon which this fee is calculated. If the Diversion Fee is due and not paid on or before the thirtieth (30<sup>th</sup>) day following the end of the calendar year, then, in addition to any other remedy provided by law, Franchisee shall pay to County a penalty in an amount equal to 1.5% per month, or portion thereof, of the amount owing until paid.



**SECTION 7.4. OUTREACH AND EDUCATION PLAN.** In order to promote education, Franchisee shall create all public education materials and conduct education programs and activities described in this Section at its expense.

(A) Program Objectives. Franchisee's public education and outreach strategy shall focus on improving Generators' understanding of the benefits and opportunities for source reduction, Reuse, and Landfill Disposal reduction. In general, Franchisee-provided public education and outreach, which shall include all content required by this Section, should: (i) inform Generators about the services that are provided under this Agreement with specific focus on describing the methods and benefits of source reduction, Reuse, and reduction of Solid Waste Disposal; (ii) instruct Generators on the proper method for placing materials in Containers for Collection and setting Containers out for Collection with specific focus on minimizing contamination of Source Separated Recyclable Materials and SSGCOW; (iii) clearly define Excluded Waste and educate generators about the hazards of such materials and their opportunities for proper handling; (iv) discourage generators from buying products if the product and its packaging are not readily reusable, recyclable, or compostable; (v) inform Generators subject to Food Recovery requirements under SB 1383 Regulations of their obligation to recover Edible Food and actions they can take to prevent the creation of Food Waste; (vi) encourage the use of Compost; and, (vii) encourage Generators to purchase products/packaging made with Recycled-content materials. The cumulative intended effort of these efforts is to reduce each Generator's reliance on Franchisee-provided Gray Container Waste service and, ultimately, Disposal, and Franchisee agrees to support and not undermine or interfere with such efforts.

(B) Franchisee Cooperation and/or Support for County Educational Efforts. Franchisee acknowledges that they are part of a multi-party effort to operate and educate the public about the integrated waste management system. Franchisee shall cooperate and coordinate with the County Contract Administrator on public education activities to minimize duplicative, inconsistent, or inappropriately timed education campaigns.

Franchisee shall obtain approval from the County Contract Administrator on all Franchisee-provided education materials including, but not limited to: print, radio, television, or internet media before publication, distribution, and/or release. County shall have the right to request that Franchisee include County identification and contact information on public education materials and approval of such requests shall not be unreasonably withheld. The County reserves the right to direct the Franchisee to modify the education and outreach program at any time.

(C) Annual Education Plan. Annually, Franchisee shall develop and submit an annual publication education plan to promote the programs performed by Franchisee under this Agreement. The plan must be submitted to the County at least sixty (60) days prior to January 1 of each Contract Year. The County has the right to make changes to the education plan. The annual public education plan shall present the education activities for the upcoming calendar year and shall be submitted with the Franchisee's annual report in accordance with Appendix 6. Each public education plan shall specify the target audience for services provided, include upcoming promotions for ongoing and known special events, identify program objectives, individual tasks, public education material to be developed or updated, opportunities for expanded partnerships, and a timeline for implementation. The County Contract Administrator shall be permitted to provide input on each annual public education plan, and the plan shall not be finalized or implemented without approval of the County Contract Administrator. Each plan's implementation success shall be measured according to the deadlines identified and products developed. Franchisee shall meet with the County Contract manager to present and discuss the plan. County Contract Administrator shall be allowed up to thirty (30) days after receipt to review and request modification. The County Contract Administrator may request, and Franchisee shall not unreasonably deny, modifications to be completed prior to approving the plan. Franchisee shall have up to fifteen (15) Business Days to revise the plan in response to any requested changes by the County Contract Administrator. Any further delays may result in Liquidated Damages for failure to perform

education and outreach activities as identified in Section 9.3. Each Business Day that the plan is late shall count as a single event/activity.

(D) Education requirements during Program Implementation/Roll-Out. Beginning on the Effective Date of this Agreement and through January 1, 2023, Franchisee shall conduct an education campaign focused on informing Customers of the Collection program changes that will commence on January 1, 2022. At a minimum, Franchisee shall perform the activities listed below and shall perform these services in a manner that complies with requirements of this Section and 14 CCR, Division 7, Chapter 12, Article 4.

(1) Prepare and distribute an initial mailer to all Customers explaining the change from the existing hauler to the new Franchisee (if applicable), changes from the existing Collection programs to new programs, Hauler Route changes, dates of program implementation, Recycling and Landfill Disposal reduction programs available, special services available, holiday Collection schedules, proper handling and disposal of Household Hazardous Waste, Franchisee's contact information, and any additional education and outreach information specified in 14 CCR, Division 7, Chapter 12, Article 4. The initial mailer shall be printed and mailed, or hand delivered to Customers, and shall also be made available in an electronic format through the Franchisee's website. Franchisee may provide a Customer with an electronic version of the initial mailer, rather than a printed version, if specifically requested by the Customer.

(2) Prepare a "How-to" flyer describing how to prepare Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste for Collection and describe the acceptable materials that can be included in the Blue and Green Containers, as well as non-allowable materials. The flyer should emphasize any new types of Source Separated Recyclable Materials to be included in Blue Containers and the new Food Waste Collection program. Prepare separate flyers for Single-Family, Multi-Family, and Commercial Customers addressing their unique service conditions. The flyers shall be printed and distributed to each Customer, as well as made available in an electronic format through the Franchisee's website. The Franchisee shall provide a sufficient number of flyers to each Multi-Family property manager for their distribution to each tenant unit. Franchisee may provide a Customer with an electronic version of the flyer rather than printed version, if specifically requested by the Customer.

(3) Prepare printed signage and posters describing Collection programs and distribute to Multi-Family property managers and Commercial Customers for on-site use.

(4) Prepare an instructional packet identifying key transition dates and verifying the Customer's specific current Service Level, which shall be printed and distributed to each Customer and made available in an electronic format on the Franchisee's website. Franchisee may provide an electronic version rather than a printed version, if requested by the Customer.

(5) Prepare and distribute public service announcements (PSA) for local newspapers.

(6) Meet with up to four (4) business or homeowners associations in separate venues to educate Residential and Commercial Customers on the Collection programs, State requirements (including SB 1383) for the County and Generators; answer questions; and provide service and Rate information.

(7) All education material designed and/or distributed by the Franchisee shall be submitted to the County Contract Administrator for approval prior to distribution or posting on the Franchisee's website.

(E) Annual and Ongoing Education Requirements. Not less than once per year during each Rate Year, Franchisee shall prepare and distribute to each Generator in the Franchise Area a mailer that includes information specified in 14 CCR Section 18985.1(a). Such mailer shall be distributed by Franchisee to all Residential and Commercial mailing addresses including individual Multi-Family Dwelling Units. Franchisee shall also make this notice available in an electronic format through the Franchisee's website.

(F) Billing Inserts. Upon County request, Franchisee agrees to insert and distribute brochures, newsletters, or other information developed by the County as inserts in Franchisee's Customer invoices at no additional charge to the County. Upon County request, Franchisee shall be responsible for printing the bill inserts. For Customers receiving electronic bills Franchisee agrees to distribute brochures, newsletters, or other information developed by the County as attachments to Customer invoices at no additional charge to the County. Franchisee shall provide electronic bill inserts to Customers who are billed electronically, and paper bill inserts to Customers who receive paper bills. Electronic Bill inserts/attachments must be readily available for the Customer to view upon receipt of the invoice. Upon County request for such inserts, Franchisee shall comply with such request during its next billing cycle for the targeted Customer group. Franchisee shall perform this service with no additional requirement for compensation.

(G) Multi-Family and Commercial Customer Signage. Franchisee shall provide all Multi-Family and Commercial Customers with Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste program guidelines, including posters to be placed in Collection areas and enclosures and other community areas at each Premises or building where Discarded Materials are stored.

(H) Minimum Website Requirements. Franchisee shall develop and maintain a website (with a unique URL specific to the County) that is specifically dedicated to the Franchise Area to provide Generators with detailed service information. The website or webpage shall be accessible by the public and shall include all education and outreach materials being provided, without requirements for login. Franchisee shall update the website regularly so that information provided is current.

(I) Instructional Service Guide. On or before January 1, 2022, Franchisee shall prepare a service guide that describes available services, including how to place Containers for Collection, which materials should be placed in each Container and prohibited materials, and provides Collection holidays and a Customer service phone number. On or before January 1, 2022, the service guide shall be printed and delivered annually to all Generators. Franchisee shall prepare different service guides for Single-Family, Multi-Family, Commercial Generators, and Commercial Edible Food generators. Franchisee shall, at its sole expense, revise, re-print, and redistribute service guides once every two (2) years or at least sixty (60) days prior to a change in the accepted or prohibited materials for any program. Franchisee shall make the service guide available in an electronic format through the Franchisee's website. Franchisee may provide an electronic version of the instructional service guide rather than a printed version, if requested by the Customer.

(J) Annual Multi-Family Dwelling Unit Notices. Prior to the Commencement Date of this Agreement, Franchisee shall obtain and track in its Customer information system(s) the number and addresses of dwelling units at each Multi-Family Premises serviced by Franchisee. Franchisee shall maintain this database by auditing the data at least once every two (2) years. At least annually, commencing no later than January 1, 2022, Franchisee shall prepare and distribute notices to each Multi-Family Dwelling Unit at Multi-Family Dwelling Premises serviced by Franchisee. The annual notices shall be a minimum of four (4) pages (which may include the front and back of a single printed sheet), and shall include information on regulations governing Discarded Materials, Hazardous Waste, and toxic waste; County and State requirements to properly separate Discarded Materials(including, but not limited to, AB 341, AB 1826, and SB 1383); instructions on properly separating materials; waste prevention; services available; and any other information required by the County or by State regulations (including SB 1383 requirements for education, pursuant to 14 CCR, Division 7, Chapter 12, Article 4). As an alternative, Franchisee may comply with these requirements

through preparation and distribution of an annual newsletter distributed to each Multi-Family Dwelling Unit that provides the same information. Franchisee shall make notices and newsletters available in an electronic format through the Franchisee's website. Franchisee may provide an electronic version of the notices rather than a printed version, if requested by the Customer.

(K) Provision of Educational Materials to Non-Compliant Entities. Franchisee shall provide educational materials to non-compliant entities under this Agreement as further described in Appendix 6.

(L) Education Materials for Property and Business Owners and Tenants. Franchisee shall annually provide Property Owners and Commercial Business owners with public education materials for their distribution to all employees, contractors, tenants, and Customers of the properties and businesses. The Franchisee's public education materials shall include, at a minimum, information about Organic Waste and Recyclable Materials recovery requirements and proper sorting of Discarded Materials; and shall reflect content requirements in Section 7.4(M) below. A Commercial Business or Multi-Family Property Owner may request these materials more frequently than the standard annual provision if needed to comply with the requirement of 14 CCR Section 18984.10 for Commercial Businesses and Multi-Family Property Owners to provide educational information to new tenants and employees before or within fourteen (14) days of occupation of the Premises. In this case, the Commercial Business or Multi-Family Property Owner may request delivery of materials by contacting the Franchisee's customer service department not later than two (2) weeks in advance of the date that the materials are needed.

(M) Education Requirements for Commercial Edible Food Generators. At least annually the Franchisee shall provide Commercial Edible Food Generators with the following information:

- (1) Information about the County's Edible Food Recovery program;
- (2) Information about the Commercial Edible Food Generator requirements under 14 CCR, Division 8, Chapter 12, Article 10;
- (3) Information about Food Recovery Organization and Food Recovery Services operating within the County, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and,
- (4) Information about actions that Commercial Food Generators can take to prevent the creation of Food Waste.

(N) Minimum Content Requirements. Prior to February 1, 2022; and annually thereafter, the Franchisee shall include the following education and outreach content to Customers by incorporation of this content into the public education materials described in Section 7.4(E) through (L).

(1) Information on the Generator's requirements to properly separate Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste and place such materials in appropriate Containers pursuant to this Agreement, SB 1383 Regulations, and all other Applicable Law.

(2) Information on methods for the prevention of Source Separated Recyclable Materials and SSGCOW generation; managing SSGCOW on Generator's Premises through composting or other Landfill Disposal reduction activities allowed under 14 CCR Sections 189831.1 and 18983.2; and sending SSGCOW to Community Composting operations.

(3) Information regarding the methane reduction benefits of reducing the Disposal of SSGCOW, and the method(s) that the Franchisee uses to recover SSGCOW.

- (4) Information regarding how to recover Source Separated Recyclable Materials, SSBCOW, and SSGCOW, and a list of haulers approved by the County.
- (5) Information related to the public health and safety and environmental impacts associated with the Disposal of SSGCOW and SSBCOW.
- (6) Information regarding programs for donation of Edible Food.
- (7) For Commercial Customers, information about the County's Edible Food Recovery Collection program; Tier One Commercial Edible Food Generators and Tier Two Edible Food Generators requirements specified in 14 CCR, Division 7, Chapter 12, Article 10; Food Recovery Organizations and Food Recovery Services operating within the County, and where a list of those Food Recovery Organization and Food recovery Services can be found; and, information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.
- (8) Information regarding Self-Hauling requirements.
- (9) Any other federal, State, or local requirements to properly separate Discarded Materials or other necessary actions by Generators, including applicable requirements of the County Code, AB 341, AB 1826, and SB 1383 and corresponding regulations.
- (O) Material Distribution Methods. Franchisee shall use one of the following methods to provide education information to Customers. All materials are to be approved by the County prior to distribution.
- (1) Printed Materials. Franchisee shall provide printed education materials as described in Section 7.4(E) through (L). The Franchisee shall be responsible for the design, printing, and distribution of these materials. All Franchisee-printed public education materials shall, at a minimum, use recycled paper and/or be made of recycled material. The Franchisee will use 100% post-consumer paper and procure printed materials from local businesses.
- (2) Electronic materials and website content. Franchisee shall provide electronic and website content for education and outreach materials, which may include, but are not limited to: digital graphics, digital versions of print materials, social media posts, and blog posts. The Franchisee shall be responsible for the design, posting, and electronic distribution of these materials.
- (P) Non-English Language Requirements. Upon County request, Franchisee shall provide materials in additional languages in response to shifting demographics within the County; updates to State requirements or Applicable Law; or, any other reason deemed appropriate by the County.
- (Q) Record Keeping and report Requirements. Franchisee shall comply with the public education and outreach record keeping and reporting requirements of Appendix 6.

## **SECTION 7.5. TECHNICAL ASSISTANCE PROGRAM.**

(A) Organizing and Conducting Direct Generator Outreach: Site Visits and Waste Assessments. At least sixty (60) days prior to the Franchise Date, Franchisee will provide an Outreach and Education Plan and Implementation and Compliance Plan to County for approval identifying the site visit schedule for which to send a Franchisee representative to visit each Multi-Family and Commercial Generator's Premises for the purpose of assessing how much Source Separated Recyclable Materials and SSGCOW is being Disposed; assessing the Source Separated Recyclable Materials and SSGCOW Collection Service Levels needed to meet the requirements of SB 1383 Regulations; and inform all Customers of opportunities to reduce costs by

enrolling Source Separated recyclable Materials and SSGCOW Collection service and reducing Gray Container Waste Collection service. Franchisee shall contact Multi-Family and Commercial Customers and provide site visits according to the County-approved schedule. Franchisee will also provide a site visit to any Multi-Family and Commercial Generator that requests a site visit, even if it is ahead of schedule.

Beginning January 1, 2022, and annually thereafter, a Franchisee representative shall follow up with Multi-Family and Commercial generators who are required to participate in Source Separated Recyclable Materials and SSGCOW Collection service under Applicable Law, including but not limited to AB 341, AB 1826, and SB 1383 and corresponding regulations. The Franchisee shall ensure that these Generators are participating in the Source Separated Recyclable Materials and SSGCOW Collection Service. If the Generator is not in compliance or not participating, the Franchisee shall assist the Customers with selecting appropriate Containers and Container sizing, identify acceptable Discarded Materials Collection services as set forth in this Agreement, and attempt to resolve any logistical barriers to providing Source Separated Recyclable Materials and SSGCOW Collection service. Franchisee shall provide ongoing, on-site training for Commercial Generators' staff, including, but not limited to: management, kitchen staff, service employees, and janitorial staff; and Multi-Family Customers' staff, including but not limited to: the property manager, janitorial staff, maintenance, and any other on-site staff members or contractors that handle Discarded Materials.

For each on-site waste assessment conducted by Franchisee, Franchisee shall include documentation of the items listed below. County reserves the right to request Franchisee's documentation of additional information and shall authorize the format for required information.

- (1) Pictures of material in all Containers;
- (2) Characteristics of the property, business, and Generator type;
- (3) Written recommendations for the appropriate Service Level for each material type;
- (4) Provision of outreach and education materials appropriate to the Generator type;
- (5) Determination of signage placement;
- (6) Determination of any on-going training needs;
- (7) Determination of any access needs;
- (8) Documentation of any special service needs (such as, but not limited to, seasonal Collection service, automated on-call compactor, etc.); and,
- (9) Documentation of records of communications with the Generator.

**SECTION 7.6. EDIBLE FOOD RECOVERY PROGRAM SUPPORT.** No later than January 1, 2022, Franchisee shall identify all Commercial Customers that meet the definition of Tier One and Tier Two Commercial Edible Food Generators and provide a list of such Customers to the County, which shall include: Customer name; service address; contact information; Tier One or Tier Two classification; and, type of business (as it relates to the Tier One and Tier Two Commercial Edible Food Generator definitions). Contractor shall update the list and provide it to the County annually.

**SECTION 7.7. INSPECTION AND ENFORCEMENT.**

- (A) Annual Compliance Review. Franchisee shall perform compliance reviews described in this

Section commencing January 1, 2022, and at least annually thereafter, unless otherwise noted.

(B) Commercial Generator Compliance Reviews. Franchisee shall complete a compliance review of all Multi-Family and Commercial Customers that generate two (2) cubic yards or more per week of Solid Waste, including Organic Waste, to determine their compliance with: (1) Generator requirements under the County's Discarded Materials Collection program; and, 2) if applicable for the generator, Self-hauling requirements pursuant to 14 CCR Section 18988.3, including whether a Multi-Family or Commercial Business is complying through Back-Hauling SSGCOW and/or Source Separated Recyclable Materials and/or SSBCOW. The compliance review shall mean a "desk" review of records to determine Customers' compliance with the above requirements and does not necessarily require on-site observation of service; however, the County may request that the Franchisee perform an on-site observation of service in addition to or in lieu of the desk review if needed to obtain the required information.

(C) Annual Customer Subscription Review. Beginning January 1, 2022 and annually thereafter, the Franchisee shall conduct annual Customer subscription reviews of Commercial, Multi-Family, and Single-Family Generators to determine Customer compliance with the subscription to a two-Container or three-Container Collection system and Container contamination monitoring. These Customer subscription reviews may be performed concurrently with the contamination monitoring Hauler Route reviews, provided Franchisee documents a reasonable sampling of Generators for which compliance with the subscription to a two-Container or three-Container Collection program during the Hauler Route review was assessed.

(D) Generator Waiver Audits. Within thirty (30) days of County request, Franchisee shall provide service level and account holder information for Generators which hold a SB 1383 Regulation Organic Waste waiver from the County.

(E) Compliance Review Process.

(1) Number of Reviews. The Franchisee shall conduct a sufficient number of compliance reviews, Hauler Route reviews, and inspections of Generators, to adequately determine the Generators' overall compliance with SB 1383 Regulations, AB 1826, and AB 341. The number of reviews shall be mutually agreed upon by the County and Franchisee and satisfy the requirement of 14 CCR Section 18995.1(b) which requires a sufficient number of reviews. County reserves the right to require additional inspections, if the County determines that the amount of inspections conducted by the Franchisee is insufficient. County may require the Franchisee to prioritize inspections of entities that the County determines are more likely to be out of compliance.

(2) Non-Compliant Entities. From January 1, 2022 through December 31, 2023, when compliance reviews are performed by Franchisee pursuant to Section 7.7, Franchisee shall provide educational materials in response to violations. Franchisee shall provide these educational materials to the non-compliant Customers and Generators within thirty (30) days of determination of non-compliance or immediately upon determination of non-compliance if such non-compliance is determined during an inspection or Hauler Route review. Franchisee shall document the non-compliant Customers and Generators and the date and type of education materials provided and shall report such information to the County in accordance with Appendix 6. Beginning January 1, 2024, the Franchisee shall, in addition to providing the education materials described in this subsection, document non-compliant Customers and Generators determined through Franchisee's compliance reviews pursuant to Section 7.7, and shall report all Customer and Generators with violations of SB 1383 Regulations to the County in accordance with Section 7.7. The County shall be responsible for subsequent enforcement action against the Generators.

(3) Documentation of Inspection Actions. The Franchisee shall generate a written and/or

electronic record and maintain documentation for each inspection, Hauler Route review, and compliance review conducted, including the information described in Appendix 6. At least quarterly, all required information must be uploaded to the County designated software.

**SECTION 7.8. TERMINATION FOR FAILURE TO IMPLEMENT IMPLEMENTATION AND COMPLIANCE PLAN.** Subject to Section 11.1(a)(5), failure to implement the strategies listed in the Implementation and Compliance Plan will be deemed an Event of Default unless the Franchisee can demonstrate to the reasonable satisfaction of the County that it can meet the solid waste diversion requirements of AB 939 and SB 1383, and meet all other compliance requirements for the Franchise.

**SECTION 7.9. TONNAGE INFORMATION.** The Franchisee shall keep data on the origin and tonnage of Discarded Materials collected in the Franchise Area. The Franchisee shall provide to the County, on a monthly basis, or less frequently if agreed between the Parties, the following information in a format supplied by or approved by the Director:

1. The tonnage of County Discarded Materials collected in the Franchise Area by the gross number of tons collected each month;
2. The origin and tonnage of Discarded Materials that is actually delivered to each Designated Disposal Facility each month;
3. The weight of Source Separated Recyclable Materials collected in the Franchise Area and delivered for recycling;
4. The facility to which each type of Recyclable Material or Recovered Material is delivered by the Franchisee or its designee;
5. The weight of SSGCOW Materials collected in the Franchise Area and delivered for recycling;
6. The facility to which each type of SSGCOW Materials is delivered by the Franchisee or its designee;
7. The rate of participation in recycling programs; calculated on a per-Customer basis, to be provided annually;
8. Any other information reasonably requested by the Director to meet Applicable Law and the reporting requirements of the County.

**SECTION 7.10. SAFETY.**

(A) Safety Meetings. The Franchisee shall participate in monthly Safety Committee Meetings hosted by the County.

(B) Compliance. The Franchisee shall maintain all facilities utilized under the current waste hauling system in compliance with ANSI Z245.42-2012 Waste Transfer Station Safety Requirements, as well as all applicable safety and environmental laws to ensure workers' safety, public health and protection of the environment. All equipment utilized by the Franchisee shall conform to ANSI Z245.1-2017 Mobile Wastes and recyclable Materials Collection, Transportation, and Compaction Equipment Safety Standards. Franchisee shall submit to the County on an annual basis information on any and all written safety programs.

(C) Safety Inspections. County retains the right to inspect Franchisee Facility(ies) utilized by



Franchisee to handle Discarded Materials, at any time, with or without notice.

(D) Contingency Plan. Franchisee shall have a written contingency plan, describing the steps that the Franchisee shall take to avoid interruptions in collection, disposal, and processing services. At all times, the Franchisee and their employees shall operate and maintain all collection vehicles and equipment in compliance with all applicable laws. The Franchisee shall maintain all necessary licenses and registrations, and shall timely pay all fees and taxes, on all vehicles and equipment, as required under applicable laws.

(E) Incident Reporting. Franchisee must immediately (within twelve (12) hours) report to the Director or County Contract Administrator any work-related death or serious injury or illness. Franchisee must also report any on-road incident involving a county resident or member of the public to the Director or County Contract Administrator.

(F) Designated Disposal Facility. Franchisee agrees to abide by any and all Safety Rules and Regulations at the Designated Disposal Facility(ies). This includes but is not limited to participating in OCWR Cal/Sharp Program activities, inspections, and/or audits, as required by the County.

(G) Safety Training. Franchisee shall provide suitable operational and safety training for all of its employees in compliance with Cal/OSHA, all applicable laws and its own safety program. The safety training shall include but not be limited to: general industry safety, alcohol and drug-free workplace, fire safety, driver training, accident prevention, personal protective equipment, solid resource collection safety, Illness and Injury Prevention Program, workplace free from sexual harassment, and workplace free from violence. Franchisee employees who utilize or operate vehicles or equipment for Collection of Solid Waste who are otherwise directly involved in such Collection shall be properly trained in such tasks. Records of such training history shall be maintained and made available for review by the Director. Franchisee shall provide a summary of all safety training to the County on an annual basis.

## ARTICLE 8: OPERATING ASSETS

### SECTION 8.1. OPERATING ASSETS.

(A) Obligation to Provide. The Franchisee shall acquire and maintain at its own cost and expense, Operating Assets which in number, nature, and capacity shall be sufficient to enable the Franchisee to provide the Franchise Services in accordance with the terms hereof and such assets shall be subject to inspection by the County at any time. The Franchisee shall bear all risk of loss of or damage to the Operating Assets, all risk of damage, loss, liability or injury caused by the operation thereof, and all risk of the effect that any periodic fluctuations in the amount of Discarded Materials or a modification in the size of the Franchise Area may have on the Franchisee's ability to perform the Franchise Services, including such fluctuations which may require new, additional, or different Operating Assets and/or Vehicles, or which may increase the cost, expense, or burden of transporting County Acceptable Solid Waste or Residue to the Designated Disposal Facility.

(B) Vehicle and Equipment Identification. The Franchisee's name, phone number, and vehicle or equipment number shall be visibly displayed in letters not less than three (3) inches in height on both sides of its Vehicles or other collection equipment used by the Franchisee. No other signs, advertisements, or markings shall be placed on the Vehicles or other collection equipment [excepting Multi-Family Containers under Section 4.3(D)] without the prior approval of the Director, except signs or markings relative to use of such equipment including traffic safety signs or markings or instructions regarding filling or placement of collection Bins.

(C) Vehicle Specifications, Maintenance, and Appearance. All Vehicles shall be properly registered with the Department of Motor Vehicles of the State of California, shall be of a type approved by the Director, shall be kept clean and in good repair, and shall be continuously maintained in a watertight condition, in accordance with current industry standards. Vehicles used to collect or transport Discarded Materials shall comply in all respects with Title 4 Division 3 of OCCO and all other requirements of applicable law and be kept covered at all times except when such material is actually being loaded or unloaded, or when the Vehicles are moving along a collection route in the course of collection. All Vehicles shall carry a broom, shovel, and operable fire extinguisher. All collection Vehicles shall be washed at least once every seven (7) days and cleaned and painted as required, to maintain a like-new appearance. All Vehicles must be made available for inspection upon reasonable notice by the Director. In addition, the Franchisee shall meet all requirements of the Biannual Inspection Terminal (BIT) Program and shall provide the results of the BIT Program to the Director within ten (10) days of receipt.

(D) Vehicle Age. The average age of all vehicles shall not be greater than ten (10) years upon initiation of services. At no time during this agreement shall vehicles be older than thirteen (13) years in age. Franchisee shall report to County annually the make, model, year, and type of fuel used for all vehicles in use within the Franchise Area covered by this Franchise Agreement.

(E) Spillage. Any cover or screen shall be so constructed and used that Solid Waste shall not blow, fall, or leak out of the Vehicle. In the event of a spill, leak, or loss of Solid Waste during transit, the Franchisee shall immediately arrange for the clean-up, processing and transportation of the portion characterized as Discarded Materials to the Designated Disposal Facility at the Franchisee's sole cost and expense. Franchisee shall pay any resulting fines, assessments, penalties, or damages resulting therefrom, and shall indemnify and hold harmless the County in accordance with the procedures and to the fullest extent provided in Section 12.1 hereof.

(F) Computer System. If the Franchisee maintains records on a computer system, the Franchisee will provide the County with any reports or data required by this Franchise Agreement in an electronic format approved by the County Contract Administrator. Raw data may not be submitted as a substitute to

the Franchisee's obligation to provide various reports under this Franchise.

**SECTION 8.2. OPERATION AND MAINTENANCE OF THE OPERATING ASSETS.** The Franchisee, at its own cost and expense, shall at all times operate the Operating Assets properly and in a safe, sound, and economical manner; shall maintain, preserve, and keep the Operating Assets in good repair, working order, and condition; shall staff the Operating Assets with the appropriate number of employees consistent with good management practice; and shall make all necessary and proper repairs, replacements, and renewals, so that at all times the operation of the Operating Assets may be properly and advantageously conducted. The Franchisee shall maintain the safety of the Operating Assets at a level consistent with Applicable Law, the Insurance Requirements, and prudent solid waste management practices.

**SECTION 8.3. COMPLIANCE WITH APPLICABLE LAW.** The Franchisee shall comply with all Applicable Law relating to any aspect of the Franchise Services and this Franchise Agreement, shall obtain and maintain all legal entitlements required for the Operating Assets and the Franchise Services, shall comply with all valid acts, rules, regulations, orders, and directions of any Governmental Body applicable to the Operating Assets and the Franchise Services provided hereunder. The Franchisee shall keep all records indicating compliance required by the Federal Immigration and Control Act of 1986 and shall make such records available for inspection by the Director upon request.

**SECTION 8.4. TAXES AND UTILITY CHARGES.** The Franchisee shall pay all Taxes lawfully levied or assessed upon or in respect of the Operating Assets or the Franchise Services, or upon any part thereof or upon any revenues of the Franchisee therefrom, and shall provide and pay the cost of all Utilities necessary for the operation of the Operating Assets and the provision of the Franchise Services, when the same shall become due.

**SECTION 8.5. INSURANCE ON OPERATING ASSETS.** The Franchisee shall at all times during the term of this Franchise Agreement, at its own cost and expense, obtain and maintain insurance on all the Operating Assets meeting the requirements set forth in Section 9.7. If any useful part of the Operating Assets shall be lost, damaged, or destroyed, the Franchisee shall, as expeditiously as may be possible, commence and diligently prosecute the repair or replacement of the damaged property so as to restore the same to use to the extent required to perform the Franchise Services in accordance with this Franchise.

## **ARTICLE 9: GENERAL REQUIREMENTS**

### **SECTION 9.1. PUBLIC ACCESS TO THE FRANCHISEE.**

(A) Office Facilities. The Franchisee shall establish and maintain an office within the County through which the Franchisee's representatives may be contacted, unless otherwise approved by the Director.

(B) Office Hours. The Franchisee's office hours shall be at a minimum, from 8:00 a.m. to 5:00 p.m. daily, except Saturdays, Sundays, and holidays. Saturday hours shall be, at a minimum, from 8:00 a.m. to 12:00 noon for Franchisees serving commercial accounts. These hours may be altered with the approval of the Director.

(C) Availability of Representatives. A representative of the Franchisee shall be available at the Franchisee's office during office hours for personal or telephone communication with the Director and with Customers. Telephone service shall be available toll-free to all Customers.

(D) Emergency Telephone Number. The Franchisee shall provide the County with an emergency telephone number for use by the Director and other County representatives outside normal business hours. The Franchisee shall have a representative, or an answering service to contact such representative, available at the emergency telephone number during all hours other than normal office hours.

### **SECTION 9.2. COMPLAINTS.**

(A) Complaints to Franchisee. During office hours the Franchisee shall maintain a telephone system in which complaints can be received. Franchisee shall maintain an afterhours telephone answering system satisfactory to the Director. All service complaints and billing complaints will be directed to the Franchisee. Franchisee shall notify County Contract Administrator of all complaints within three (3) days of receiving a complaint. Copies of all complaints shall be given to the Director upon request. The Franchisee shall record all complaints in a log, including date, complainant name and address, and nature and resolution of complaint. This log shall be available for inspection by the Director during the Franchisee's regular office hours. Copies thereof shall be furnished to the Director upon request. The Franchisee shall use reasonable best efforts to attempt to contact the Customer and resolve all complaints.

(B) Franchisee Database of Complaints. The Franchisee agrees to maintain a computer database log of all oral and written complaints received by Franchisee from Customers or other Persons. Franchisee shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of all Customer complaints. Franchisee agrees to document and maintain for a period of at least twenty-four (24) months on a form or log all Complaints register by Customers and Person, in accordance with this Section and Appendix 6. Franchisee shall record complaints received related to SB 1383 Regulatory non-compliance in its log in a manner further described in Section 9.2(B)(1) below.

(1) SB 1383 Regulatory Non-Compliance Complaints. For complaints received in which the Person alleges that an entity is in violation of SB 1383 Regulations, Franchisee shall document the information listed in Appendix 6. Franchisee shall provide this information in a brief complaint report to the County for each SB 1383 Regulatory non-compliance complaint within three (3) days of receipt of such complaint, and a monthly summary report of SB 1383 Regularity non-compliance complaints in accordance with Appendix 6.

(2) Investigations. Franchisee shall commence an investigation, within ninety (90) days of receiving a complaint in the following circumstances: 1) upon Franchisee receipt of a complaint that entity may not be compliant with SB 1383 Regulations and if County determines that the allegations against the entity, if true, would constitute a violation of SB 1383 Regulations; and, 2) upon County

request to investigate a complaint received by County, in which County determines that the allegations against the entity, if true, would constitute a violation of SB 1383 Regulations. Franchisee is required to investigate complaints against Customers and Generators, but not against Food recovery Organizations, Food Recovery Services, and other entities regulated by SB 1383 Regulations. Franchisee shall investigate the complaint using one or more of the methods:

- (a) Reviewing the Service Level of the entity that may not be compliant with SB 1383 Regulations;
- (b) Reviewing the waiver list to determine if the entity has a valid waiver;
- (c) Reviewing the Self-Haul registration list to determine if the entity has registered and reviewing the entity reported Self-Haul information;
- (d) Determining if the entity is located in a Low-Population Area and/or High-Elevation Area;
- (e) Inspecting Premises of the entity identified by the complainant, if warranted; and/or
- (f) Contacting the entity to gather more information if warranted.

(3) Reporting. Within seven (7) days of completing an investigation of an SB 1383 Regulatory non-compliance complaint, Franchisee shall submit an investigation complain report that documents the investigation performed and recommendations to County on whether or not the entity investigated is in violation of SB 1383 Regulations based on the Franchisee's investigation. The County shall make a final determination of the allegations against the entity.

(C) Required Response to Complaints. The Franchisee, within twenty-four (24) hours of its receipt of notice from a Customer or the Director of a failure to provide Solid Waste collection services as required by the terms of this Franchise, shall collect such Discarded Material, provided such Discarded Material meets the requirement of Article 4 hereof, and is in Containers or is otherwise contained in a manner suitable for pickup by the Franchisee's usual collection method and has been placed in the Designated Collection Location.

### **SECTION 9.3. LIQUIDATED DAMAGES.**

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

(B) Service Performance Standards/Liquidated Damages for Failure to Meet Standards. The parties

further acknowledge that consistent, reliable Solid Waste Handling Service is of utmost importance to County and that County has considered and relied on Franchisee's representations as to its quality of service commitment in entering this Agreement with it. The Parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The Parties further recognize that if Franchisee fails to achieve the performance standards, or fails to submit required documents in a timely manner, County and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which County will suffer. Therefore, without prejudice to County's right to treat such breaches as an Event of Default under Article 11.1, the Parties agree that the following liquidated damage amounts represent a reasonable estimate of the amount of such damages for such specific breaches, considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to the County that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In signing this Amendment, each Party specifically confirms the accuracy of the statements made above and the fact that each Party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Amendment was made. Franchisee agrees to pay (as liquidated damages and not as a penalty) the amounts set below:

(1) Excessive Complaints: When Franchisee or the Director receives verified complaints from more than one-half of one percent (0.5%) of its Customer base within a six (6) month period, Franchisee will be assessed \$250.00 per complaint per occurrence; and an additional \$250.00 each 24 hours until each complaint is resolved. For purposes of this Section, "complaints" shall mean Customer notifications to the Franchisee or the Director of missed pick-ups, property damage, missed commitments, employee misconduct or poor quality of service (e.g., litter on property or public right-of-way or misplacement of Containers).

(2) Failure to Perform Route Reviews and Contamination Monitoring Requirements: For each failure to conduct Route Audits and Contamination Monitoring in accordance with Section 5.6 and Section 7.7 of this Agreement: \$150 per audit per day.

(3) Failure to Comply with Container Color Requirements as Required by SB 1383. For each occurrence of Franchisee's failure to comply with Container color requirements pursuant to Appendix 1-C of this Agreement: 1<sup>st</sup> Violation: \$50 per occurrence, 2<sup>nd</sup> Violation: \$100 per occurrence, 3<sup>rd</sup> and subsequent Violations: \$250 per occurrence.

(4) Failure to Perform Public Education and Outreach. For each failure to perform any individual education and outreach activity as required and, in the timeframe, specified by Section 7.4.: 1<sup>st</sup> Violation: \$50 per occurrence, 2<sup>nd</sup> Violation: \$100 per occurrence, 3<sup>rd</sup> and subsequent Violations: \$250 per occurrence.

(5) Failure to Conduct Compliance Tasks. For each failure to conduct any compliance review, Discarded Materials evaluations pursuant to Section 7.7: 1<sup>st</sup> Violation: \$50 per occurrence, 2<sup>nd</sup> Violation: \$100 per occurrence, 3<sup>rd</sup> and subsequent Violations: \$250 per occurrence.

(6) Failure to Issue Contamination Notices. For each failure of Franchisee Collection personnel to issue contamination notices and contaminating Processing fee notices and maintain documentation of issuance as required by Section 5.6 of this Agreement: 1<sup>st</sup> Violation: \$50 per route per day, 2<sup>nd</sup> Violation: \$100 per route per day, 3<sup>rd</sup> and subsequent Violations: \$250 per route per day.

(7) Failure to Provide Recyclable Material and Organic Material Collection Services to

every Customer. For each occurrence of failing to provide Customers with a three-Container system, including Recyclable Material and Organic Materials, required by and compliant with Article 4: \$500 per Customer. Exceptions noted below.

(8) Failure to Meet Facility Standards per Appendix 1-E: \$1,000.00 per occurrence.

(9) Use of Unauthorized Facilities. For each individual occurrence of delivering Discarded Materials to a Facility other than an Approved Facility(ies) for each Discarded Material type under this Agreement: 1st Violation: \$50 per ton per occurrence, 2nd Violation: \$100 per ton per occurrence, 3rd and subsequent Violations: \$250 per ton per occurrence.

(10) Failure to remit the County fees or file the required reports in an accurate and complete manner by the fifth (5<sup>th</sup>) working day following the due date of such fees or reports: \$500.00 per occurrence.

(11) Franchisee operating hours not authorized by the County: \$1,000.00 per occurrence.

(12) Failure to maintain records required by Franchise: \$1,000.00 per occurrence.

(13) Failure to meet all the requirements of the BIT Program, or failure to provide results of such BIT Program to the Director within ten (10) days of receipt of request: \$1,000.00 per occurrence.

(14) In addition to the termination remedies available to the County hereunder, Franchisee shall be liable for liquidated damages for each day it operates in violation of the provisions of Section 9.6 regarding Insurance Coverage: \$1,000.00 per day.

(15) Increases in liquidated damages when Franchisee has violated requirements for a particular service indicator more than fifteen (15) times: 125% of original amount of liquidated damages.

(16) Submissions to County: Any report shall be considered late until such time as a correct and complete report is received by County. For each calendar day that a report is late, the daily liquidated damage amount shall be:

- a) Monthly Reports: \$500.00 per day
- b) Quarterly Reports: \$1,000.00 per day
- c) Annual Reports: \$2,000.00 per day

(17) For each calendar day that the Diversion Fee (if due, per Section 7.3), accompanied by supporting tonnage and Gross Receipts documentation, is late, the daily liquidated damage amount shall be: \$250.00 per day

(18) Cooperation with Service Provider Transition

a) For each day that routing information requested by County is received after County-established due dates, both for preparation of a request for proposals and for new service provider's implementation of service: \$1,000.00 per day

b) For each day that delivery of keys, access codes, remote controls, or other means of access to Solid Waste Containers is delayed beyond one (1) day prior to new service provider servicing Customers with access issues: \$1,000.00 per day.

County may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees or representatives or investigation of Customer complaints.

Prior to assessing liquidated damages, County shall give Franchisee notice of its intention to do so. The notice shall include a brief description of the incident(s)/non-performance. Franchisee may review (and make copies at its own expense) all information in the possession of County relating to incident(s)/non-performance. Franchisee may, within ten (10) days after receiving the notice, request a meeting with County. Franchisee may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. County, by and through the Director of OC Waste & Recycling, shall provide Franchisee with a written explanation of its determination on each incident(s)/non-performance prior to authorizing the assessment of liquidated damages. The decision of the Director of OC Waste & Recycling shall be final.

(19) Amount: County may assess liquidated damages for each calendar day or event, as provided in this Agreement, that Franchisee is determined to be liable in accordance with this Franchise.

(20) Timing of Payment: Franchisee shall pay any liquidated damages assessed by County within ten (10) days after they are assessed. If they are not paid within the ten (10) day period, County may proceed against the performance bond required by the Agreement or find Franchisee in default and terminate this Agreement.

Any such liquidated damages shall be paid directly to the County and may not be included by the Franchisee as justification for an upward adjustment in the Rate schedule or offset against any fees.

County shall not assess Liquidated Damages for Section 9.3(B)(7) under the following circumstances:

- (1) County has granted the Customer a waiver.
- (2) Franchisee documents that the Customer is compliant with 14 CCR Division 7, Chapter 12, Article 7.
- (3) Franchisee documents to the County that the Customer is being provided Recyclable Material and/or Organic Material Collection services from a County-permitted, or non-exclusively franchised recycler or Discarded Materials service provider.
- (4) Franchisee documents that Customer is sharing Recyclable materials and/or Organic Materials Collection Services with another Customer in a manner approved by the County.
- (5) The County has failed to adopt a mandatory Recycling ordinance.

#### **SECTION 9.4. ACCOUNTING AND RECORDS.**

(A) Maintenance and Audit of Records. The Franchisee shall maintain in its principal office in the County full and complete financial statements and accounting records that include the cash receipts from



and the cost of doing business in the Franchise Area including, but not limited to, cash, billing, and disposal transactions for the Franchise Area. The gross receipts derived from the Franchise Services under this Franchise, whether such services are performed by the Franchisee or by a Subcontractor, shall be recorded as revenues in the accounts of the Franchisee. The County shall be entitled to inspect and audit all records at any reasonable time at the Franchisee's principal Orange County office. The following records of Franchisee shall be subject to audit: cash receipts, billing and disposal transactions for the Franchise Area and any other records of Franchisee that are relevant to the costs incurred by Franchisee. All statements are to be prepared in accordance with generally accepted accounting principles. Franchisee shall be responsible for all expenses associated with conducting this audit.

In the event that a Special Circumstance rate adjustment is requested, all records supporting and relating to the requested adjustment shall be subject to audit in accordance with generally accepted auditing standards, and inspection, for the primary purpose of reviewing changes in costs to the Franchisee attributable to the Special Circumstance request, at any reasonable time by an independent third Party. Franchisee recognizes the County of Orange Auditor-Controller as an independent third Party for purposes of conducting this audit. The Parties may agree to selection of the County of Orange Auditor-Controller if sufficient staff resources are available. The selection of the independent third Party as well as the scope of work for such audit shall be approved in advance by the Director. The independent auditor shall provide any and all drafts of its audit to the County and the Franchisee. The Party requesting the Special Circumstance rate review shall bear the cost of the audit.

The Franchisee shall maintain and preserve all cash, billing, and disposal records for at least five (5) years following the term of this Franchise. Any deviation from this subsection will require the written approval of the Director and may require approval by the Board of Supervisors.

(B) Confidentiality. The County agrees to hold financial statements delivered pursuant to this Section as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law. Franchisee is aware that the County is subject to the provisions of the California Public Records Act and that the application of such act may require disclosure of certain documentation provided by Franchisee to the County. County shall have no liability for complying with the California Public Records Act.

**SECTION 9.5. RULES AND REGULATIONS OF DIRECTOR.** The Director shall have the power to establish rules and regulations relating to the accumulation, collection, processing, and disposal of Franchise Solid Waste consistent and/or in accordance with the County Code, in addition, and in no way limiting the Director's authority under OCCO, the Director may provide such additional rules and regulations as are found to be reasonably necessary by the Director for enforcement of the provisions of this Franchise, or any and all Applicable Laws, and for the preservation of the public health, safety, and general welfare. The Franchisee agrees to comply with any and all such rules and regulations, subject to the provisions of this Franchise relating to adjustments in the rate schedule as a result of Changes in Law.

**SECTION 9.6. PERSONNEL AND SUBCONTRACTORS.**

(A) Employment Practices. The Franchisee shall at all times maintain and follow employment practices in accordance with all applicable state and federal laws and regulations, and shall indemnify the County for any Legal Proceeding relating to its noncompliance with such laws or regulations.

(B) Non-Discrimination. In the performance of the terms of this Franchise, the Franchisee agrees that it will not engage in nor permit such Subcontractors as it may employ to engage in discrimination against any employee or applicant for employment on the basis of race, sex, color, religion, ancestry, national origin, marital status, age or as a qualified individual with a disability. This prohibition shall pertain to employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination;

rates of pay and other forms of compensation; selection for training, including apprenticeship; and any other action or inaction pertaining to employment matters

(C) Personnel. The Franchisee shall employ personnel sufficient in number, training, experience, and capability to ensure that the Franchise Services are properly carried out. The franchisee shall provide routine safety training to its employees, in compliance with OSHA, all applicable laws and its safety and training plan. The safety and training plan would include but not be limited to: general safety, alcohol and drug-free workplace, fire safety, driver training, accident prevention, personal protective equipment, solid resource collection safety, Illness and Injury Prevention Program, workplace free from sexual harassment, and workplace free from violence.

(D) Driver Qualification. All drivers shall be trained and qualified in the operation of Collection vehicles and must have in effect a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.

(E) Safety Training. Franchisee shall provide suitable operational and safety training for all of its employees in compliance with Cal/OSHA, all applicable laws and its own safety program. The safety training shall include but not be limited to: general industry safety, alcohol and drug-free workplace, fire safety, driver training, accident prevention, personal protective equipment, solid resource collection safety, Illness and Injury Prevention Program, workplace free from sexual harassment, and workplace free from violence. Franchisee employees who utilize or operate vehicles or equipment for Collection of Solid Waste who are otherwise directly involved in such Collection shall be properly trained in such tasks. Records of such training history shall be maintained and made available for review by the Director.

(F) Staff Training. Annually, and upon hiring of new staff, the Franchisee is required to conduct thorough training of all Customer service representatives who may respond to Generator calls regarding Franchisee's Collection services and SB 1383 Regulatory requirements. Customer service representatives shall accurately communicate program requirements and the accepted and prohibited materials for each material stream for each Customer type. New Customer service representatives shall not be assigned to the County prior to completing SB 1383 Regulations training. The County reserves the right to require changes to the call routing process and the training and qualifications for Customer service representatives assigned to the County if a pattern of inaccurate information provision is observed.

Annually, and upon hiring of new staff, Franchisee shall conduct thorough training of all Hauler Route personnel that come into contact with Generators on the Collection program requirements and the accepted and prohibited materials for each material stream for each Customer type.

(G) Employee Conduct. Franchisee shall use its best efforts to ensure that all employees present have a neat appearance and conduct themselves in a courteous manner in their dealings with customers and the general public.

(H) Operation. Vehicles shall be operated in compliance with the California Vehicle Code, and all applicable safety and local ordinances. Franchisee shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by State or local weight restrictions on vehicles.

(I) Equipment. The franchisee shall utilize modern semi-automated equipment, clean, painted, and in a state of good repair with the Company's name and telephone number clearly visible from the outside of the vehicle or equipment. All collection vehicles, including tractor trailers that carry roll-off Containers, shall

be in compliance with the SCAQMD Fleet Rule 1193. All solid resources collection vehicles shall be equipped with on-board technology (software and hardware) capable of monitoring and recording data, vehicle dynamics monitoring, lift monitoring, photo and video, and engine performance monitoring systems. On-board technology shall capture at minimum, fuel consumption, idle time, unsafe driving practices, safety inspections, vehicle maintenance, engine emissions, and container lifts. This data shall be communicated from the truck in real-time and maintained by the haulers. The data must be accessible transferred to the County in an acceptable format and in real-time. Franchisee's collection vehicles and equipment shall be maintained in compliance with the manufacturer's specifications, and all applicable laws and regulations.

(J) Subcontractors. The Franchisee shall not utilize any Affiliates or Subcontractors for the performance of the Franchise Services except with the prior written consent of the Director, which may be withheld or delayed if the Director determines that such consent is not in the best interest of the public health, safety, or general welfare. In the event that approved Subcontractors are utilized, the Franchisee shall provide the County with direct access to a designated representative from the Subcontractor, such designation not to be changed without prior approval of the Director, except in cases of termination of the employee. The Parties acknowledge the County's approval of a Subcontractor and any direct contact with any Subcontractors in no way eliminates the Franchisee's responsibility to fulfill all obligations under this Franchise Agreement.

**SECTION 9.7. INSURANCE REQUIREMENTS.** Prior to the provision of services under this Franchise Agreement, the Franchisee agrees to purchase all required insurance at Franchisee's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Franchise Agreement have been complied with. Franchisee agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Franchise Agreement. In addition, all subcontractors performing work on behalf of Franchisee pursuant to this Franchise Agreement shall obtain insurance subject to the same terms and conditions as set forth herein for Franchisee.

Franchisee shall ensure that all subcontractors performing work on behalf of Franchisee pursuant to this Franchise Agreement shall be covered under Franchisee's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Franchisee. Franchisee shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Franchisee under this Franchise Agreement. It is the obligation of Franchisee to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Franchisee through the entirety of this Franchise Agreement for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Franchisee's current audited financial report. If Franchisee's SIR is approved, Franchisee, in addition to, and without limitation of, any other indemnity provision(s) in this Franchise Agreement, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Franchisee's, its agents, employee's or subcontractor's performance of this Franchise Agreement, Franchisee shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Franchisee's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Franchisee's SIR provision shall be interpreted as though the Franchisee was an insurer and the County was the insured.

If the Franchisee fails to maintain insurance acceptable to the County for the full term of this Franchise Agreement, the County may terminate this Franchise Agreement.

### **Qualified Insurer**

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Franchisee shall provide the minimum limits and coverage as set forth below:

<b><u>Coverage</u></b>	<b><u>Minimum Limits</u></b>
Commercial General Liability	\$5,000,000 per occurrence \$5,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$10,000,000 per occurrence
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence

### **Required Coverage Forms**

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

### **Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange its elected and appointed officials, officers, agents and employees*** as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN AGREEMENT***.

2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Franchisee's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, agents and employees*** or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN FRANCHISE AGREEMENT***.

All insurance policies required by this Franchise Agreement shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

Franchisee shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Franchise Agreement, upon which the County may suspend or terminate this Franchise Agreement.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Franchisee fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Franchisee to increase or decrease insurance of any of the above insurance types throughout the term of this Franchise Agreement. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Franchisee in writing of changes in the insurance requirements. If Franchisee does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Franchise Agreement may be in breach without further notice to Franchisee, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Franchisee's liability hereunder nor to fulfill the indemnification provisions and requirements of this Franchise Agreement, nor act in any way to reduce the policy coverage and limits available from the insurer.

**SECTION 9.8. PERFORMANCE ASSURANCES.** The Franchisee shall obtain Performance Assurances in the minimum amount of \$500,000 or an amount equal to 20% of the Gross Revenue (whichever is greater) for the specific Franchise Area. Franchisee agrees to deliver such Performance Assurances to the County within thirty (30) days after the Franchise Date. Such Performance Assurances shall permit the County to draw upon them or otherwise exercise its rights thereunder in the event that the Franchisee fails to perform its obligations hereunder and fails to pay any liquidated damages required to be paid as a result of such non-performance. The Performance Assurances shall serve to secure the performance of the Franchise Services, and the amount thereof shall in no way limit the damages which may be payable hereunder upon any breach hereof by the Franchisee.

The Performance Assurances shall take one of the forms set out below and shall guarantee Franchisees full and faithful performance of all the terms, covenants, and conditions of this Franchise:

Cash: The Performance Assurance amount will be deposited with and held in an interest-bearing trust account (which may be commingled with other monies of OC Waste & Recycling) by the Orange County Treasurer.

The Performance Assurance may be invested in the Orange County Investment Pool or other investment(s) as determined by the Orange County Treasurer in accordance with California law and the County's Investment Policy Statement (as it may be amended from time to time).

Irrevocable Letter of Credit (LOC): An irrevocable letter of credit, from a financial institution and in a form acceptable to the Director, may be delivered to the County in the required amount of the Performance Assurance. The LOC must permit the Director to draw on the LOC, in whole or in part. The LOC must not be revocable by the Franchisee and, if the LOC has an expiration date, the financial institution issuing the LOC must notify the County no later than sixty (60) days prior to the LOC expiration date. If Franchisee fails to extend the LOC at least thirty (30) days prior to its expiration date, or provide the Performance Assurance as otherwise permitted herein, Franchisee will be in material breach of this Franchise.

Surety Bond: A surety bond (Surety), issued by a surety company with a minimum insurance rating of A- (Secure Best's Rating) and VIII (Financial Size Category), as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or [ambest.com](http://ambest.com), and authorized to write in California by the Department of the Treasury, and must be listed on the most current edition of the Department of Treasury's Listing of Approved Securities, in a form acceptable to the Director may be delivered to the County in the required amount of the Performance Assurance. The Surety must permit the Director to draw on the Surety, in whole or in part. The Surety must not be revocable by the Franchisee and, if the Surety has an expiration date, the surety company issuing the Surety must notify the County no later than sixty (60) days prior to the Surety expiration date. If Franchisee fails to extend the Surety at least thirty (30) days prior to its expiration date or provide the Performance Assurance as otherwise permitted herein, Franchisee will be in material breach of this Franchise.

The Performance Assurance shall only be drawn to the extent permitted herein and may not be drawn by the County for any other reason. Franchisee shall have no ability to withdraw any monies, terminate or lower the amount of a LOC or terminate or lower the amount of a Surety from the Security Deposit during the term of this Franchise or following termination until any and all amounts due to the County are paid.

Franchisee shall deposit with the County additional monies or increase the stated amount of a LOC or Surety for the Security Deposit in the event: a) the Security Deposit is drawn upon by County as permitted herein, or b) the Director determines, based upon deferred payment fees for the previous three (3) month period, that the Security Deposit should be increased. Franchisee shall deposit additional monies or increase the stated amount of the LOC or Surety for the Security Deposit within ten (10) days of written notice by the County.

Regardless of the form in which Franchisee elects to make said Performance Assurances, all or any portion of the principal sum shall be available unconditionally to the Director for correcting any default or breach of this Franchise by Franchisee, its successors or assigns, or for payment of expenses, fees, charges or liquidated damages payable to the County as a result of the failure of Franchisee, its successors or assigns, to faithfully perform all terms, covenants, and conditions of this Franchise.

In the event that the Director withdraws any or all of the Performance Assurances as provided herein, Franchisee shall, within ten (10) days of any withdrawal by the Director, replenish the Performance Assurances to maintain it at amounts herein required. Failure to do so shall be deemed a material default and shall be grounds for immediate termination of this Franchise.

**SECTION 9.9. ANNUAL SUSTAINABILITY ACTION REPORT.** OC Waste & Recycling is committed to reducing its impact on the local and global environment by promoting and implementing sustainable business practices. The department is adopting measures both in business practices and waste management operations to minimize the potential environmental impacts and use resources as effectively

as possible. In support of this, Franchisee is required to submit and annually update a Sustainability Action Report that demonstrates what measures the company is taking to control its impact on the environmental and to contribute to a sustainable work operation. The report will document the company's effect related to:

1. Waste reduction, reuse and recycling, and
2. Corporate business practices

The report will cite target goals, progress made towards accomplishing those goals and recommendations for short-term and long-term actions that will lessen the Franchisee's impact on the environment.

The plan may include regional information and activities, but must provide direct statistical information about activities and accomplishments being made on a local level within the Franchise Area. The reports will be submitted to the Department Contract Coordinator and may be included in the department's annual reports on sustainability.

## **ARTICLE 10: RATES AND RATE REVIEW PROCESS**

### **SECTION 10.1. FRANCHISEE TO COLLECT RATES.**

(A) Generally. The Franchisee shall perform the responsibilities and duties described in this Franchise in consideration of the right to charge and collect amounts from Generators of Discarded Materials for collection, processing, and disposal services rendered, at rates ("Rates") fixed by the County. The Franchisee will not look to the County for payment of any sums due under this Franchise.

(B) Billing. The Franchisee shall render a statement ("Billing Statement") to each Customer by the fifteenth (15th) day of the month or quarterly, which Billing Statement shall set forth a calculation of the applicable Rates for the month/quarter in which the Billing Statement is rendered. Such Rates shall not be past due to the Franchisee until thirty (30) days after the date of the Billing Statement. The Franchisee shall be responsible for determining and maintaining the Customer name, service address, billing address and all other pertinent Customer account data.

(C) Bill Records. Franchisee shall maintain copies of all billings and receipts, each in chronological order, for the Term of this Agreement, for inspection and verification by the County Contract Administrator at any reasonable time, but in no case more than thirty (30) calendar days after receiving a request to do so.

(D) Delinquent Accounts. The Franchisee shall be responsible for collecting all Rates due and payable to it under this Franchise. The Franchisee shall be responsible for implementing its own collection methods, provided that whatever steps are taken in regard to delinquent accounts comply at a minimum with the following:

(1) The Franchisee shall notify the Customer in writing if the bill is fifteen (15) or more days overdue and contact the Customer to advise that service will be terminated no sooner than forty-five (45) days after the due date on the initial Billing Statement.

(2) The Franchisee will remove the Solid Waste Containers within two (2) weeks from the date that service is terminated.

(3) The Franchisee will impose a charge in an amount no greater than \$45.00 per Container for Commercial Premises and Multi-Family Dwelling Customers and no greater than \$25.00 for Single-Family Dwelling Customers to return the Container(s) after they have been removed by reason of a terminated account.

(4) The Franchisee may refer the delinquent account to a collection agency or seek legal remedies.

The County reserves the right to direct the Franchisee not to proceed or to modify these procedures. The County shall not have any obligation to reimburse the Franchisee for delinquent accounts.

(E) Universal Enrollment Process. Franchisee shall assist the County in ensuring that the enrollment of Generators occurs in a timely and efficient manner. County and Franchisee shall cooperatively develop and agree to a process no later than January 1, 2022. In accordance with Appendix 6, Record Keeping and Reporting, Franchisee shall maintain records and provide reports necessary for the County to verify the enrollment of Generators.

At least two (2) times per year, Franchisee shall reconcile and confirm universal enrollment of Generators by comparing its Customer list to parcel information and calculating the percentage of total Generators enrolled in County's Collection program. As part of this analysis, Franchisee shall provide the County with a summary of any discrepancies found between the Customer list and parcel information, including the



names and addresses of all Generators that were found to be the subject of a discrepancy. Franchisee shall also provide a list of Generators that are not enrolled in the County's Collection program due to Generator's choice to Self-Haul materials, including the name, address, and type of waiver or Self-Haul status for each Generator. In accordance with Appendix 6, Record Keeping and Reporting, Franchisee shall maintain records and provide reports on the Generators' Service Level and list of non-enrolled Generators, and other information necessary for the County to verify the universal enrollment of Generators.

## **SECTION 10.2. RATES.**

(A) Rate Adjustment. On each July 1 during the term hereof, commencing July 1, 2022, the Rates shall be adjusted annually using the Consumer Price Index Category: Waste and Sewer and Trash Collection Services in U.S. City Average (CUSR0000SEHG) as published by the United States Department of Labor, Bureau of Labor Statistics. If this index becomes unavailable, a similar, mutually agreed upon Index shall be used in its place. The first yearly rate adjustment will take effect July 1, 2022. OC Waste & Recycling will provide to the Hauler the amount of the Rate increase by May 1 of each year. The increase will be calculated by taking the average of the monthly difference in CPI in the previous calendar year compared to the prior year. An example is shown in Appendix 3-A. No CPI adjustment shall be greater than four percent (4%). Should the annual CPI adjustment exceed four percent (4%) in any given year, then the excess of any such adjustment shall be deferred and applied in the following year, and every year thereafter, as needed, to the Rates and the then-applicable Rates, which shall be adjusted accordingly until Franchisee is fully compensated for the amount deferred. In the event that the average of the monthly difference in CPI in the previous calendar year compared to the prior year is less than zero (0) in any given year, then the negative amount of the CPI adjustment will be deferred to the following year, and every year thereafter, as needed, to the Rates and the then-applicable Rates, which shall be adjusted accordingly.

(B) Charges for Special Services. In addition to the revenues authorized by the Rates in Appendix 2-A through 2-B, the Franchisee may charge and receive fees for performing Special Services for which Rates are not set by Appendix 2-C. Rates shall be negotiated and agreed upon in separate contracts between the Franchisee and each Customer requesting such Special Services. Negotiated Special Services rates are subject to approval by the Director.

(C) Senior Citizen Discount. Franchisee agrees to reduce residential monthly collection fees by ten percent (10%) for Senior Citizen residents. The following criteria must be met in order for the resident to receive the discount: (1) must be 65 years of age or older, (2) must provide proof of being the head of household, and (3) must agree to reduce cart size to 35 gallon capacity for all cart types. No reduction in number of carts will be allowed, unless requested by the customer. Up to one (1) time per year, Franchisee may request verification of Senior Citizen Discount eligibility. Franchisee shall notify residents of the available discount a minimum of twice a year. Notifications shall be six (6) months apart. Notice of the discount shall be sent out with normal billing.

(D) Low Income Discount. Franchisee agrees to reduce monthly residential collection fees by ten percent (10%) for low income residents. The following criteria must be met in order for the resident to receive the discount: (1) Must provide proof of low income by being enrolled in "California Lifeline" telephone program or CARE/FERA program, or by submitting a copy of a utility bill showing a Low Income Discount, (2) Name on utility bill or other low income program must be head of household. The Low-Income Discount only applies to Single-Family Dwellings using the standard three cart Collection system. Up to one (1) time per year, Franchisee may request verification of Low-Income Discount eligibility. Franchisee shall notify residents of the available discount a minimum of twice a year. Notifications shall be six (6) months apart. Notice of the discount shall be sent out with normal billing.

**SECTION 10.3. SPECIAL CIRCUMSTANCE RATE REVIEW.** At its option, the Franchisee may request a Special Circumstance Rate review should an event or circumstance arise which negatively

impacts the economics of operating pursuant to this Franchise, and which is in excess of the Rate adjustment provided in Appendix 3-A. The County may also initiate a Special Circumstance Rate review at its option. A Rate adjustment due to Special Circumstances may be approved at the option of the Board of Supervisors if:

(A) It is necessary for the Franchisee to make a substantial change in its operation, or substantial capital investment in order to perform its obligations under this Franchise, or

(B) Changes to operations or Approved Facilities that are mandated by the County, or

(C) Changes in law, regulations, taxes or Designated Disposal Facilities occur which affect the Franchisee's expenses, or

(D) Fees are levied or imposed by the County or any state or federal agency in excess of amounts charged for such fees on the date of this Franchise.

If the Franchisee experiences a substantial increase or decrease in the size of the Franchise Area as set forth in Appendix 1-A and 1-B, and the Franchisee believes that such increase or decrease represents an economic hardship, the Franchisee may request a Special Circumstance rate review, but in no event before four (4) years from the Franchise Date.

All pertinent information must be submitted to the Director for review and subsequent consideration by the Board of Supervisors. All costs of a Special Circumstance Rate review shall be borne by the Party requesting such review. The continuing existence of a Special Circumstance, which has previously been determined to justify a Special Circumstance rate adjustment, shall be reviewed annually.

**SECTION 10.4. PUBLICATION OF RATES.** The Franchisee shall provide written notice to Customers of all current Rates and any proposed Rate changes. Such written notice shall be delivered to all Customers as part of the next quarterly or monthly billing statement that Franchisee sends to its Customers.

## **ARTICLE 11: DEFAULT, REMEDIES AND TERMINATION**

### **SECTION 11.1. DEFAULT AND REMEDIES.**

(A) Events of Default. Each of the following shall constitute an Event of Default:

- (1) Any transaction not complying with the requirements of Section 3.4 hereof.
- (2) The failure by the Franchisee for any reason to deliver to the Designated Disposal Facility, on a consecutive or cumulative basis through the term of this Franchise, Solid Waste in an amount equal to 5 tons (based on collections in the first full Franchise Year) of Acceptable Solid Waste collected by the Franchisee.
- (3) The failure of Franchisee to timely make any payment to the County or maintain all insurance coverage as required in this Franchise.
- (4) The failure of Franchisee, except as may be excused by Uncontrollable Circumstances, to make at least 99.95% of the scheduled collections of Discarded Materials from Residential Premises and Commercial Premises in any Franchise Year.
- (5) Failure or refusal of the Franchisee to perform any term, covenant, obligation or condition in this Franchise, other than a failure or refusal described in items (1), (2), (3) or (4) above, except that no such failure or refusal shall give the County the right to terminate this Franchise under this Section unless:
  - (a) The Director provides written notice to the Franchisee, describing the specific failure or refusal to perform, which will result in termination of this Franchise unless such default is corrected within fifteen (15) days, and
  - (b) The Franchisee has neither challenged in an appropriate forum the Director's conclusion that such failure or refusal to perform has occurred nor corrected or diligently taken steps (in the opinion of the Director) to correct such default within such fifteen (15) day period from receipt of the notice given pursuant to clause (a) of this subsection (but if the Franchisee shall have diligently taken steps to correct such default within a reasonable period of time, the same shall not constitute an Event of Default for as long as the Franchisee continues to take such steps to correct such default).
- (6) The written admission by the Franchisee that it is bankrupt, or the filing by the Franchisee of a voluntary petition under the Federal Bankruptcy Code, or the consent by the Franchisee to the appointment by a court of a receiver or trustee for all or a substantial portion of its property or business, or the making by the Franchisee of any arrangement with or for the benefit of its creditors involving an assignment to a trustee, receiver or similar fiduciary, regardless of how designated, of all or a substantial portion of the Franchisee's property or business.
- (7) The final adjudication of the Franchisee as bankrupt after the filing of an involuntary petition under the Bankruptcy Act, however, no such adjudication shall be regarded as final unless and until the same is no longer being contested by the Franchisee nor until the order of the adjudication is no longer appealable.
- (8) The failure of Franchisee to provide or maintain the Performance Assurances required pursuant to Section 9.8 hereof, without any requirement of notice or cure opportunity.
- (9) Any occurrence of an event considered to be an Event of Default under the Waste

Disposal Agreement.

(10) **Failure to Provide Processing Capacity.** Franchisee fails to provide adequate Processing capacity in accordance with Appendix 1-E, which is essential for the County to achieve SB 1383 compliance.

(11) **Failure to Achieve Processing Standards.** Franchisee fails to achieve the Processing standards specified in Appendix 1-E, including achievement of minimum Organic Materials recovery rates, which are essential for the County to achieve SB 1383 compliance.

(12) **Failure to Comply with Other Requirements of SB 1383.** Franchisee fails to comply with other requirements of the Agreement including, but not limited to, public education, reporting, contamination monitoring, recordkeeping and reporting, or other obligations of this Agreement that delegate the County's responsibility and/or authority under SB 1383 to the Franchisee.

(13) **Failure to Implement Collection Program.** Franchisee fails to implement a Collection program that complies with the requirements of Article 4, which is essential for the County to achieve compliance with SB 1383.

(B) **Right to Terminate Upon Default.** Upon a determination by the Director that an Event of Default has occurred, the Director may terminate this Franchise. Upon receipt of the Director's termination notice, the Franchisee shall pay to the County (1) all amounts due and payable to the County under this Franchise including but not limited to liquidated damages, and (2) an amount equal to the sum of all increased payments, damages and penalties incurred by or on behalf of the County under Applicable Law as a result of the termination of this Franchise.

(C) **County's Remedies Cumulative; Specific Performance.** The County's right to terminate this Franchise under Section 11.1 is not exclusive, and the County's termination of the Franchise shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies which the County may have, including but not limited to specific performance, liquidated damages and fees and expenses incurred by or on behalf of the County in enforcing payment or performance of the Franchisee's obligations hereunder if such non-performance results in a judicially determined Event of Default by the Franchisee.

## **SECTION 11.2. UNCONTROLLABLE CIRCUMSTANCES.**

(A) **Excuse From Performance.** In the event that a Party is prevented from performing its obligations under this Franchise by an Uncontrollable Circumstance, it shall not constitute an Event of Default of this Franchise, so long as the Party in good faith has used its best efforts to perform its respective obligations.

The Party claiming an Uncontrollable Circumstance shall, within twenty-four (24) hours after such Party has notice of the Uncontrollable Circumstance, give the other Party notice of the facts constituting such Uncontrollable Circumstance and asserting its claim under this Section. Specifically, such information shall include the following:

(1) The Uncontrollable Circumstance and the cause thereof;

(2) The date that the Uncontrollable Circumstance began and the cause thereof, its estimated duration, the estimated time during which the performance of such Party's obligations hereunder will be delayed;

(3) Estimated impact on the other obligations of such Party under this Franchise; and

(4) While the delay continues, the Franchisee or County shall give daily notice to the other Party updating the information previously submitted.

In the event of an Uncontrollable Circumstance, the Parties hereby waive any claim against each other for any damages sustained thereby.

(B) County's Right to Terminate. The partial or complete interruption or discontinuance of the Franchisee's services caused by one or more Uncontrollable Circumstances shall not constitute an Event of Default by the Franchisee under this Franchise. Notwithstanding the foregoing, however, if the Franchisee is excused from performing its obligations hereunder for a period in excess of fourteen (14) days because of any Uncontrollable Circumstance, the County shall nevertheless have the right, in its sole discretion, to terminate this Franchise by giving ten (10) days notice, in which case the provisions of Section 11.5 will apply.

**SECTION 11.3. RIGHT TO DEMAND ASSURANCES OF PERFORMANCE.** If the Director believes in good faith that the Franchisee's ability to perform under the Franchise has been placed in substantial jeopardy by one of the events enumerated below, the Director may, at their option and in addition to all other remedies the County may have, require that the Franchisee provide the Director with sufficient proof that none of the events enumerated below will impair Franchisee from performing its obligations under this Franchise:

- (1) Franchisee is the subject of any labor unrest, including work stoppages or slowdown, sick-out, picketing, or other concerted job action;
- (2) Franchisee appears, in the reasonable judgment of the Director, to be unable to regularly pay its bills as they become due;
- (3) Franchisee is the subject of a civil or criminal judgment or order entered by any federal, state, regional, or local court or regulatory agency for violation of any environmental or criminal laws, or any matter concerning fraud, theft or corruption.

If the Franchisee fails or refuses to provide to the Director adequate information to establish its ability to perform within thirty (30) days, such failure or refusal shall be an Event of Default for purposes of Section 11.1(A).

The Franchisee shall file a statement of ownership and management at such times as may be requested by the Director, and shall verify the same as being true under penalty of perjury. Failure to comply with this paragraph within thirty (30) days from the date of Director's request shall constitute an Event of Default.

**SECTION 11.4. WAIVER OF DEFENSES.** To the extent permitted by law, the Franchisee acknowledges that it is solely responsible for providing the services described herein, and hereby irrevocably waives the following defenses to the payment and performance of its obligations under this Franchise: any defense based upon failure of consideration; contract of adhesion; or the existence, non-existence, occurrence or non-occurrence of any foreseen or unforeseen fact, event, or contingency that may be a basic assumption of the Franchisee with regard to any provision of this Franchise.

**SECTION 11.5. COUNTY'S RIGHT TO PERFORM SERVICE.**

(A) General. In the event that the Franchisee, for any reason whatsoever, fails, refuses, or is unable to collect, transport, Process, or Dispose of any or all Discarded Materials which it is required by this Franchise to collect and transport, at the time and in the manner provided in this Franchise, for a period of

more than forty-eight (48) hours, and if, as a result thereof, Discarded Materials should accumulate in the Franchise Area to such an extent, in such a manner, or for such a time that the Director should find that such accumulation endangers or menaces the public health, safety, or welfare, then the County shall have the right, but not the obligation, upon twenty-four (24) hour prior written notice to the Franchisee during the period of such emergency as determined by the County:

- (1) To perform, or cause to be performed, such services itself with its own or other personnel (including but not limited to another waste hauler) without liability to the Franchisee; and/or
- (2) To take possession of any or all of the Franchisee's Vehicles, Containers, and other equipment used in the collection and transportation of Discarded Materials in the Franchise Area, and to use such equipment, free of charge, to collect and transport any County Discarded Materials.
- (3) Solid Waste generated within the Franchise Area which the Franchisee would otherwise be obligated to collect and transport pursuant to this Franchise.

Notice of the Franchisee's failure, refusal, or neglect to collect and transport Discarded Materials shall be provided in writing to the Franchisee at its principal office and shall be effective immediately.

The Franchisee further agrees that in such event:

- (1) It will take direction from the County to affect the transfer of possession of equipment to the County for the County's use.
- (2) It will, if the County so requests, keep in good repair and condition all of such property, provide all Vehicles with fuel, oil, and other service, and provide such other service as may be necessary to maintain said property in operational condition.
- (3) The County may immediately engage all or any personnel necessary or useful for the collection and transportation of Discarded Materials, including, if the County so desires, employees previously or then employed by the Franchisee. The Franchisee further agrees, if the County so requests, to furnish the County with the services of any or all management or office personnel employed by the Franchisee whose services are necessary for Discarded Material collection and transportation operations, and for the billing and collection of fees for these services.

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

The County's exercise of its rights under this Section: (1) does not constitute a taking of private property for which compensation must be paid; and (2) does not exempt the Franchisee from the indemnity provisions of Section 12.1, which are meant to extend to circumstances arising under this Section, provided that the Franchisee is not required to indemnify the County against claims and damages arising from the acts and omissions of County officers, employees, and agents in the operation of collection vehicles during the time the County has taken possession of such Vehicles.

(B) Duration of the County's Possession. The County has no obligation to maintain possession of the Franchisee's property and/or continue its use in collecting and transporting Discarded Material for any period of time and may, at any time, in its sole discretion, relinquish possession to the Franchisee.

The County's right to retain temporary possession of the Franchisee's property, and to provide Discarded Material collection services, shall continue until the Franchisee is capable of full resumption of such services, or one-hundred eighty (180) days, whichever occurs first.

## ARTICLE 12: MISCELLANEOUS PROVISIONS

### SECTION 12.1. INDEMNIFICATION.

(A) Generally. The Franchisee shall defend with counsel approved in writing by County, indemnify, and hold harmless the County, its officers, agents and employees from any and all claims, demands, damages, costs, expenses, judgments, or liabilities arising out of this Franchise or connected with the performance, failure to perform or attempted performance of provisions hereof, including, but not limited to (1) any act or omission to act on the part of the Franchisee or its agents, employees, or Subcontractors, except to the extent such liabilities are due to the negligence or willful act of the indemnified parties, (2) the collection, transportation, handling, storage, or disposal (by the Franchisee or its agents, employees, or subcontractors) of Discarded Materials, (3) any claim for any finders or brokerage fee or other commission resulting from any services alleged to have been rendered to or performed on behalf of the Franchisee with respect to this Franchise or any of the transactions contemplated hereby, (4) any action taken by the County pursuant to its rights under Section 11.5 hereof upon a failure to collect, transport or dispose of Discarded Materials, (5) the performance or non-performance of the Franchisee's obligations under this Franchise, except to the extent such liabilities are due to the negligence or willful act of the indemnified parties, and (6) Franchisee's failure to comply with Applicable Law.

(B) CERCLA Indemnification. The Franchisee shall indemnify and defend with counsel approved by the County, and hold harmless the County, its officers, employees, agents, assigns and any successor or successors to the County's interest from and against all claims, actual damages (including but not limited to special and consequential damages), natural resource damage, punitive damages, injuries, costs, response remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including but not limited to attorney's and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever (collectively "Liabilities") paid, incurred or suffered by, or asserted against, the County or its officers, employees, agents or contractors arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure of other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Waste at any place where Franchisee stores or disposes of municipal Solid Waste pursuant to this Franchise to the extent that such claims, damages, costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses are caused by any of the following: (1) the negligence or willful misconduct of the Franchisee; (2) the collection, handling, processing, or disposal by the Franchisee of any materials or waste, including hazardous substances or materials, which are generated by, or collected from, waste Generators other than those Generators to which the Franchisee provides services pursuant to this Franchise; (3) the failure of the Franchisee to undertake hazardous waste and materials training procedures required by law with respect to its employees or Subcontractors; or (4) the improper or negligent handling, processing or disposal by the Franchisee of hazardous waste or materials which (i) the Franchisee inadvertently collects from waste Generators to which the Franchisee provides services pursuant to this Franchise and (ii) which the Franchisee identifies as Hazardous Waste prior to its disposal. The Franchisee shall not, however, be required to reimburse or indemnify the County and its officers, agents, employees, attorneys, administrators, affiliates, representatives, servants, insurers, successors, and heirs to the extent any such claims, damages, costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses are due to the negligence or other wrongful conduct of such Party. The County acknowledges that the mere presence of household hazardous waste in the waste which is collected by the Franchisee pursuant to this Franchise shall not constitute negligence nor in and of itself create any liability on the part of the Franchisee absent any of the circumstances described in clauses (1) through (4) of the preceding sentence.

The indemnification by the Franchisee in Section 12.1(B) shall be limited to Liabilities resulting from services rendered by the Franchisee from and after the Franchise Date and throughout the Term of this Franchise, it being specifically understood that any liabilities attributable to the Franchisee's actions prior to the Franchise Date are excluded from the indemnification in Section 12.1(B).

The foregoing indemnity is intended to operate as an agreement pursuant to Section 107 (e), 42 U.S.D. Section 9607(e) and California Health and Safety Code Section 25364, to insure, protect, hold harmless, and indemnify the County from liability in accordance with this section. The provisions of this subsection shall survive termination of this Franchise.

**(C) AB 939, AB 341, AB 1826, and SB 1383 Indemnification.**

1. To the extent authorized by law, Franchisee agrees to indemnify and hold harmless County from and against all fines and/or penalties imposed by CalRecycle in the event the source reduction and recycling goals or any other requirement of AB 939, AB 341, AB 1826, and SB 1383 are not met by County with respect to the Discarded Materials collected under this Franchise.

2. Franchisee warrants and represents that it is familiar with County's waste characterization study as set forth in County's SRRE, and that it has the ability to and shall provide sufficient programs and services to ensure County shall meet or exceed the diversion and reporting requirements (including without limitation amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in AB 939; and requirements such as Collection service standards, programmatic activities, and reporting set forth in AB 341, AB 1826, and SB 1383, with respect to that portion of the Solid Waste generated in-County that is the subject of this Franchise Agreement.

3. Franchisee agrees that it shall at its sole cost and expense:

- (1) Assist County in responding to inquiries from CalRecycle;
- (2) Assist County in preparing for, and participating in, CalRecycle's biannual review of the County's Annual Report;
- (3) Assist County in any hearing conducted by CalRecycle related to County's compliance with AB 939, AB 341, AB 1826, and SB 1383;
- (4) Assist County with the development of, and implement, a public awareness and education program that is consistent with the County's SRRE and Household Hazardous Waste Element, as well as any related requirements of AB 939, AB 341, AB 1826, and SB 1383, for the Franchise Area; and,
- (5) Provide County with source reduction, waste prevention, Recycling, Organic Waste recovery, and other technical assistance related to AB 939, AB 341, AB 1826, and SB 1383.

(D) Third Parties. These indemnification provisions are for the protection of the County (and County Indemnitees) only and shall not create, of themselves, any liability to third parties, unless otherwise specified therein. The provisions of this subsection shall survive termination of this Franchise.

**SECTION 12.2. RELATIONSHIP OF THE PARTIES.** Neither Party to this Franchise shall have any responsibility whatsoever with respect to services provided or contract obligations or liabilities assumed



by the other Party hereto, whether accrued, absolute, contingent or otherwise, or whether due or to become due. The Franchisee is an independent contractor and Franchise holder and nothing in this Franchise shall be deemed to constitute either Party a partner, agent or legal representative of the other Party or to create any fiduciary relationship between the Parties. Neither Franchisee, its employees nor anyone working under Franchisee, shall qualify for workers' compensation or other fringe benefits of any kind through the County.

**SECTION 12.3. ACTIONS OF THE COUNTY IN ITS GOVERNMENTAL CAPACITY.** Nothing in this Franchise shall be interpreted as limiting the rights and obligations of the County in its governmental, police or regulatory capacity, or as limiting the right of the Franchisee to bring any legal action against the County, not based on this Franchise, arising out of any act or omission of the County in its governmental or regulatory capacity.

**SECTION 12.4. BINDING EFFECT.** This Franchise shall bind and inure to the benefit of the Parties hereto and any successor or assignee acquiring an interest hereunder consistent with the provisions hereof.

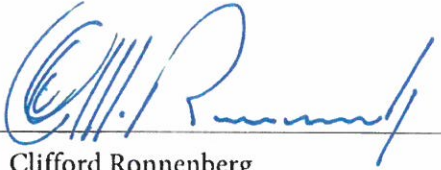
**SECTION 12.5. AMENDMENTS.** Neither this Franchise nor any provision hereof may be changed, modified, amended or waived except by written agreement duly executed by both Parties.

**SECTION 12.6. FURTHER ASSURANCE.** Each Party agrees to execute and deliver any instruments and to perform any acts as may be necessary or reasonably requested by the other in order to give full effect to this Franchise.

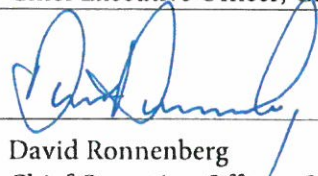
IN WITNESS WHEREOF, the Parties have executed this Franchise Agreement on the dates stated below:

**FRANCHISEE\***

Date: 5.14.21

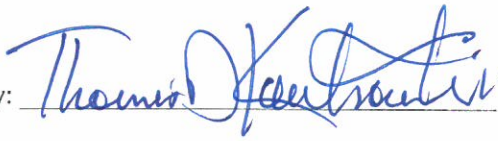
By:   
Clifford Ronnenberg  
Title: Chief Executive Officer, CR&R Incorporated

Date: 5.14.21

By:   
David Ronnenberg  
Title: Chief Operating Officer, CR&R Incorporated

**COUNTY OF ORANGE**


Date: 5/26/2021

By:   
Title: Tom Koutroulis, Director OCWR

**APPROVED AS TO FORM:**

COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

Date: 5/26/2021

By:   
Title: Paul M. Albarian, Senior Deputy

\*Unless otherwise demonstrated that the person(s) executing this Franchise Agreement on behalf of Franchisee has the requisite authority to legally obligate and bind Franchisee. If the Franchise is a corporation, signatures of two specific corporate officers are required as further set forth. The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; 3) any Vice President. The second corporate officer signature must be one of the following: a) Secretary; b) Assistant Secretary; c) Chief Financial Officer; d) Assistant Treasurer.

## **APPENDIX LISTING**

### **APPENDIX 1**

- A) Map and Description of Franchise Areas of Orange County
- B) Map of Franchise Areas
- C) Container Specifications
- D) Accepted Materials
- E) Process, Transfer, and Disposal Services and Facility Standards

### **APPENDIX 2**

- A) Maximum Rates for Residential Service
- B) Maximum Rates for Commercial Service
- C) Maximum Rates for Special Services

### **APPENDIX 3**

- A) Example Rate Adjustment Calculation for July 1, 2022
- B) Example Calculation of an Annual Change in a Published Index

### **APPENDIX 4**

Implementation and Compliance Plan

### **APPENDIX 5**

Outreach and Education Plan

### **APPENDIX 6**

Record Keeping and Reporting

### **APPENDIX 7**

Franchise Area Specific Programs

## APPENDIX 1-A

### MAP AND DESCRIPTION OF FRANCHISE AREAS OF ORANGE COUNTY



<b><u>Franchise Area</u></b>	<b><u>Description</u></b>
1	Rossmoor
2	Placentia Islands/Yorba Linda Islands/Buena Park Islands
3	Orange Islands
4	Fountain Valley Island
5 CA-1	Orange Park Acres/The Canyons
5 CA-2	El Modena
6	Lemon Heights/North Tustin/Cowan Heights/James A. Musick
7-A	John Wayne Airport
7-B	Emerald Bay/Laguna Coast Wilderness Park
8	Coto De Caza/Trabuco Canyon/Wagon Wheel/Ladera Ranch/Las Flores
<b>9</b>	<b>Rancho Mission Viejo/Sendero/San Juan Capistrano Unincorporated/Ortega Highway</b>

## **APPENDIX 1-B**

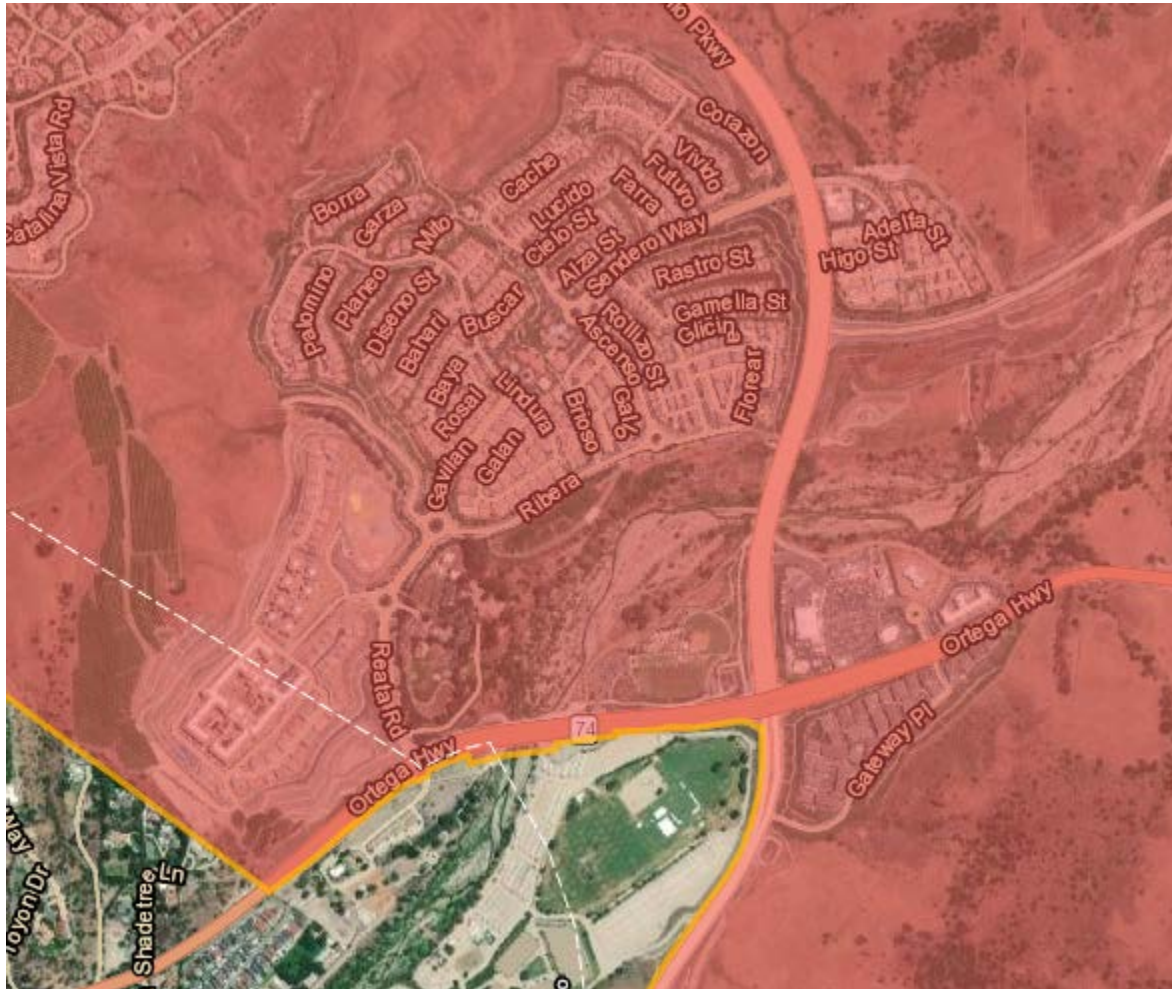
### **MAPS OF COLLECTION AREAS**

Rancho Mission Viejo:

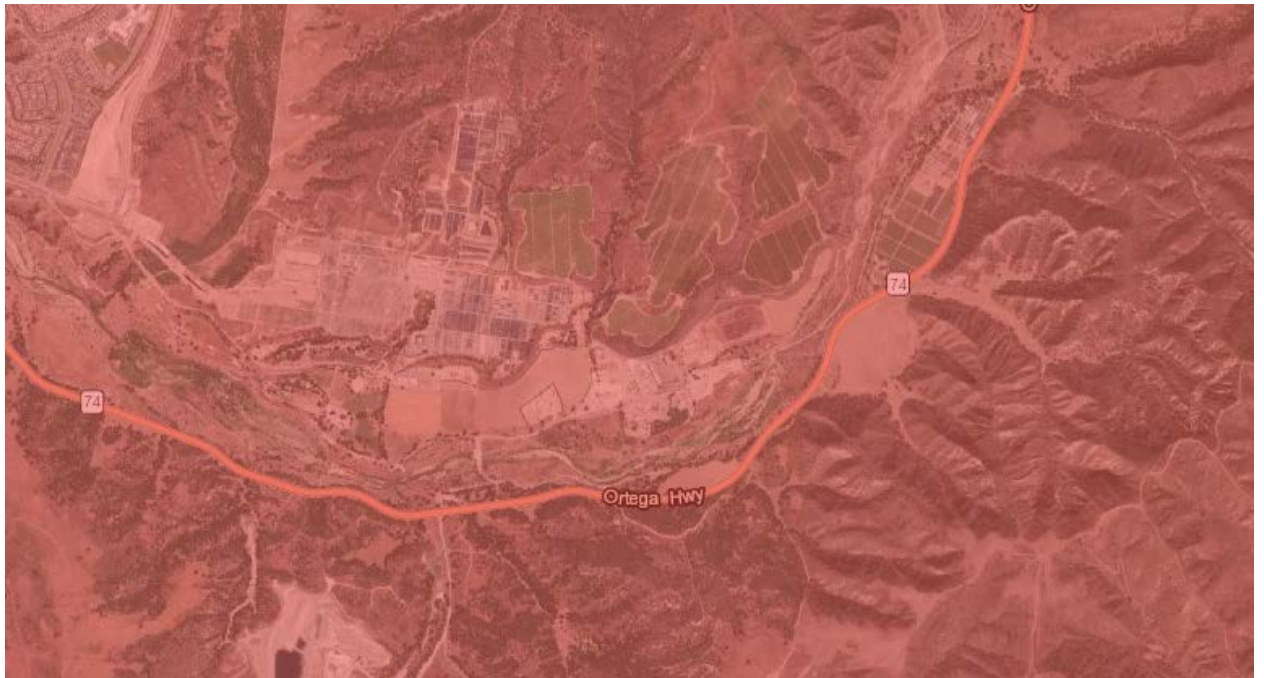




Rancho Mission Viejo (Sendero):



Ortega Highway:





## **APPENDIX 1-C CONTAINER SPECIFICATIONS**

### **Minimum Requirements Required by County:**

Franchisee will provide Containers to be used under this Agreement.

Franchisee will provide Residential Cart Customers with the option of three cart sizes for Gray Container Waste, Source Separated Recyclable Materials and Source Separated Organic Waste. Sizes offered shall be approximately 35, 64, and 96 gallons. Residential Customers may request different sizes for each waste stream.

Customers may each request one free exchange in cart sizes during each calendar year. One exchange includes all cart size changes included in the same Customer request and may include changes being made to one, two or three of the Customer's carts.

By January 1, 2032, all Containers provided by Franchisee will meet all color and labeling requirements prescribed in SB 1383 Regulations. All new Containers, included those replaced prior to January 1, 2032, must comply with SB 1383 Regulations.

**Cleaning and Maintenance.** Franchisee shall provide Customers with Bins required during the term of this Agreement and maintain Containers in safe working condition. The size of Franchisee-provided Bins shall be determined by mutual agreement of Customer and Franchisee and shall be subject to County approval. All Bins in use shall be constructed of heavy metal, or other suitable, durable material, and shall be watertight and well painted. Wheels, forklift slots, and other apparatuses, which were designed for movement, loading, or unloading of the Bin shall be maintained in good repair. Upon Customer or County request, or if required to maintain the Containers in a clean condition, Franchisee shall clean Customer Bins above one per year at the rates shown in the approved rate schedule. Contractor shall perform cleaning, repainting, or replacement of Bins as necessary to prevent a nuisance caused by odors or vector harborage. When a Bin is removed for cleaning, Franchisee shall replace the Bin, either temporarily or as a change-out, with another Container.

**Bin Identification and Color.** Each Bin placed in the Franchise Area by Franchisee shall have the name of Franchisee in letters not less than three (3) inches high on the exterior of the Bin to be visible when the Bin is placed for use. Bins shall be labeled to include bilingual (English and Spanish) and graphic instruction on what materials should and should not be placed in each Bin. Franchisee shall repaint Bins upon County's request if the County deems it necessary to maintain a neat appearance. All Refuse Bins shall be painted a uniform color of, and all Recycling and Organics Bins shall be painted a different, uniform color.

The carts provided by CR&R shall meet all of the design and performance requirements specified in the agreement and comply with SB 1383 regulations.

CR&R proposes the use of Toter (or similar manufacturer) for the use of carts for curbside residential services and as needed for commercial and multi-family service.

Carts are manufactured using medium density polyethylene with the advanced rotational molding process. Rotational molding provides superior strength-to-weight ratio not found in standard injection-molded carts and boast the industry's lowest warranty claim rate.

#### **Automated Cart Specifications**

<b>35 Gallon</b>	<b>Approximately 25" deep x 20" wide x 39" tall</b> <b>Load Rating: 112 lbs.</b> <b>Wheel Diameter: 10"</b>
<b>65 Gallon</b>	Approximately 32" deep x 25" wide x 42" tall Load Rating: 224 lbs. Wheel Diameter: 10"
<b>95 Gallon</b>	Approximately 35" deep x 29" wide x 43" tall Load Rating: 335 lbs. Wheel Diameter: 10"

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

<u>Cart Size (Gallons)</u>	<u>Minimum Load Capacity (LBS)</u>
90-100	200
60-70	130
32-35	70

#### **Cart Color Identification**

Carts bodies will be Granite Gray, with different color lids to designate the appropriate material placement: black lids for material to be disposed at the landfill, green lids for organic material and blue lids for recyclable material. Lid colors and labeling will comply with requirements of SB 1383 and be consistent in each permit area.

The following is an image of the proposed cart lids:



**Bin Color Identification**

Refuse bins will be painted a uniform color of blue with corresponding black lid. Recycling and organics bins are painted a different uniform color with corresponding lids color.

## APPENDIX 1-D ACCEPTED MATERIALS

**Residential Recycling Program** will include the following materials:

<b>Glass</b>	Food and beverage bottles, glass jars and bottles, house windows, liquor, soda and juice bottles, tempered glass, Pyrex
<b>Plastic</b>	<b>PET:</b> soft drink bottles, photo film canisters <b>HDPE:</b> detergent containers, plastic water/milk containers, pails <b>PVC:</b> sprinkler pipe <b>LDPE:</b> trash can liners, shrink wrap, grocery bags <b>PP:</b> yogurt containers, luggage, drinking straws <b>PS:</b> plastic plates, cups, egg cartons, food trays <b>Other:</b> mixed plastic containers, plastic toys
<b>Metal</b>	Empty aerosol cans, metal coat hangers, aluminum cans, tin cans, food and juice jars, empty paint cans, metal foil, lawn furniture
<b>Paper</b>	White paper, colored paper, envelopes, junk mail, phone books, magazines and other soft cover books/manuals, glossy paper, shredded paper, brown paper bags, packaging, wrapping paper and carbonless paper
<b>Cardboard</b>	Cardboard, chipboard/boxboard, milk/juice cartons, egg cartons

**Commercial Recycling Program** will include the following materials:

<b>Glass</b>	Empty glass beverage containers, empty glass food containers, all glass colors
<b>Metal</b>	Aluminum cans, tin cans
<b>Plastics</b>	Drink bottles, detergent containers, plastic toys, milk containers
<b>Paper</b>	White paper, colored paper, magazines, phone books, newspaper, milk or juice cartons
<b>Cardboard</b>	Cardboard, chipboard/boxboard

Accepted Organic Materials include the following required by CalRecycle for Residential Cart Customers.

<b>Yard Waste</b>	Loose green material from the yard, grass clippings, leaves, weeds, tree and bush prunings, material, vineyard clippings, and tree trunks/stumps/branches 3” or less in diameter
<b>Food Waste</b>	All food, fruits, vegetables, meat and bones, poultry, seafood, shellfish, dairy products, cheese, eggs and eggshells, rice, beans, bread, pasta, coffee grounds, and plate scrapings of these materials
<b>Compostable Materials</b>	Soiled paper towels, tissue products, paper napkins, paper plates and cups, coffee filters, tea bags, waxed paper, butcher paper, single use PLA cups, single serve coffee brewing cups and other plant-based utensils; paper take-out boxes and containers, greasy pizza boxes, paper bags and cardboard, and ASTM D6400 biodegradable food service ware designed to disintegrate and biodegrade quickly

## APPENDIX 1-E

### PROCESSING, TRANSFER, AND DISPOSAL SERVICES AND FACILITY STANDARDS

Franchisee has selected and arranged for Discarded Materials to be Transported to Approved Facilities for Transfer, Processing, and/or Disposal in accordance with this Appendix. The Approved Facilities shall comply with the standards specified in this Appendix. Pursuant to Section 5.1 of the Agreement, if the Franchisee does not own or operate one or more of the Approved Facilities, Franchisee shall enter into a subcontract agreement with the owner or Facility operator of such Approved Facility(ies) and the requirements of Section 5.1 of the Agreement and this Appendix shall pertain to the Subcontractor(s).

#### **A. GENERAL REQUIREMENTS:**

Franchisee agrees to Transport Discarded Materials it Collects in the County Unincorporated to an appropriate Approved Facility(ies) for Transfer, Processing, or Disposal, as applicable for each type of Discarded Material. As of the Commencement Date of this Agreement, the Approved Facilities, which were selected by Franchisee and reviewed and approved by the County, are listed in the table on the following page and in the definitions in Article 1 of this Agreement. Franchisee will perform all Transfer, Processing, and Disposal services at Approved Facilities in accordance with Applicable Law, standard industry practice, and specifications and other requirements of this Agreement. County, at its sole option, shall retain the right to require Franchisee which Transformation Facility, Organics Processing Facility, Material Recovery Facility or Landfill shall be used to retain, Recycle, Compost, Process, or Dispose of Discarded Materials generated within the Franchise Area. In this instance, Franchisee shall conduct a rate audit and recommend, if necessary, a rate adjustment. If Franchisee sees a reduction in costs, those savings shall be passed on to the rate payers.

#### **B. APPROVED FACILITIES:**

Facility / Address / SWIS #	Owner / Operator	Materials Transported, Processed or Landfilled:
CR Transfer 11232 Knott Avenue, Stanton, CA SWIS#: 30-AB-0013 C&D 30-AB-0462 Green 30-AB-0463	Owned and operated by CR&R	Transported: Solid Waste, Green Waste and Food Waste, Commingle Recyclables Processed: Mixed solid waste, Commingle Recyclables, Construction and Demolition Materials
CR&R Recycling (Western) Stanton, CA 90680 SWIS#: NA	Owned and operated by CR&R	Residential and Commercial Commingled Recyclables
CR&R Anaerobic Digestion Facility 1706 Goetz, Perris, CA 92570 SWIS#: 33-AA-0239	Owned and operated by CR&R	Residential Green Waste and Food Waste
South Yuma County Landfill 19536 South Avenue 1E, Yuma, AZ SWIS#: NA	Owned and operated by CR&R	Residential and Commercial Green Waste and Food Waste
CR&R EMSW Facility 1706 Goetz, Perris, CA 92570 SWIS#:33-AA-0239	Owned and operated by CR&R	Residual from Commingled Recyclables
South County C&D MRF 31643 Ortega Hwy, San Juan Capistrano, CA SWIS#: 30-AB-0395	Owned and operated by CR&R	Transported: Solid Waste, Green Waste and Food Waste, Commingle Recyclables Processed: Construction and Demolition Materials

### **C. DESIGNATED FACILITIES:**

#### **Disposal Facilities (Gray Container Waste and Residual Waste):**

Frank R. Bowerman Landfill – Owner/Operator: OC Waste & Recycling - 11002 Bee Canyon Access Rd., Irvine, CA 92602 - SWIS: 30-AB-0360

Olinda Alpha Landfill – Owner/Operator: OC Waste & Recycling - 1942 N. Valencia Ave., Brea, CA 92823 - SWIS: 30-AB-0035

Prima Deshecha Landfill – Owner/Operator: OC Waste & Recycling - 32250 Avenida La Pata, San Juan Capistrano, CA 92675 - SWIS: 30-AB-0019

### **D. FACILITY CAPACITY GUARANTEE:**

Franchisee shall guarantee sufficient capacity over the Term of this Agreement to Transfer (if applicable), Transport, and Process all Source Separated Recyclable Materials, Food Waste, SSGCOW, and Mixed Waste Collected under this Agreement and to Transfer (if applicable), Transport, and Dispose all Gray Container Waste Collected under this Agreement. Franchisee shall cause the Approved/Designated Facility(ies) to recover or Process the Discarded materials as appropriate; market the Source Separated Recyclable Materials, SSGCOW, Food Waste, and Mixed Waste recovered from such operations; and Dispose of Residue. Franchisee shall cause Designated Facility(ies) for Disposal to Dispose of Gray Container Waste. Franchisee shall provide the County, upon request, with documentation demonstrating the availability of such Transfer (if applicable), Transport, Processing, and Disposal capacity as described below.

- 1) Franchisee or Affiliate is owner of Approved Facilities: County may request that Franchisee report aggregate Facility capacity committed to other entities through Franchisee's contracts. County, or its agent, will have the right to seek verification of Franchisee's reported aggregate capacity through inspection of pertinent sections of Franchisee's contracts with such entities to determine the duration of Franchisee's commitment to accept materials from such entities and the type and volume of materials Franchisee is obligated to accept through the contracts. In addition, County, or its agent, will have the right to review Tonnage reports documenting the past three (3) years of Tonnage accepted at the Approved Facility(ies) by such entities. To the extent allowed by law, County, or its agent(s), agree to maintain the confidentiality of the information reviewed related to the individual contracts with other contracting entities and agree to review all related material at the Franchisee's office and will not retain any copies of review material. Franchisee will fully cooperate with the County's request and provide County and its agent(s) or access to Franchisee's records.
- 2) Franchisee's Subcontractor is the owner and/or operator of Approved Facilities: Upon County request, Franchisee shall demonstrate that such capacity is available and allocated to the County by provision of its agreement with the Approved Facility(ies) owner(s)/operator(s) (Subcontractor(s)) documenting the Subcontractor's guarantee to accept the Discarded Materials Franchisee delivers over the Term of this Agreement.

### **E. EQUIPMENT AND SUPPLIES:**

Franchisee shall equip and operate the Approved Facilities in a manner to fulfill Franchisee's obligations under this Agreement and Applicable Law, including achieving all applicable standards for Landfill Disposal reduction, Recycling, recovery, Diversion, Residue amount and content, and final product quality standards. Franchisee is solely responsible for the adequacy, Safety, and suitability of the Approved Facilities. Franchisee shall modify, enhance, and/or improve the Approved Facilities as needed to fulfill service

obligations under this Agreement, at no additional compensation from the County or Rates charged to Customers.

Franchisee shall provide all rolling stock, stationary equipment, material storage Containers, spare parts, maintenance supplies, Transfer, Transport, and Processing equipment, and other consumable as appropriate and necessary to operate the Approved Facilities and provide all services required by this Agreement. Franchisee shall place the equipment in the charge of competent equipment operators. Franchisee shall repair and maintain all equipment at its own cost and expense.

#### **F. FACILITY PERMITS:**

Franchisee or Facility operator shall keep all existing permits and approvals necessary for use of the Approved Facility(ies), in full regulatory compliance. Franchisee, or Facility operator, shall, upon request, provide copies of permits or other approvals and/or notices of violation of permits to the County.

#### **G. TRANSFER FACILITY:**

At Franchisee's option, Franchisee may rely on a Transfer Facility and, in such case, shall Transport some or all Discarded Materials to an Approved Transfer Facility. At the Transfer Facility, Discarded Materials shall be unloaded from Collection vehicles and loaded into large-capacity vehicles and Transported to the Approved Facility(ies) for Processing or Disposal, as applicable for each type of Discarded Material, in a timely manner and in accordance with Applicable Law. Franchisee or Subcontractor shall perform the following pre-Processing activities at the Approved Transfer Facility.

If Franchisee delivers some or all Discarded Materials to a Transfer Facility, it shall receive assurances from Facility operator that Facility operator will Transport or arrange for Transport of the Discarded Materials to appropriate Approved Facility(ies) for Processing or Disposal, as applicable for each type of Discarded Material. In such case, Franchisee shall receive written documentation from the Facility operator(s) of the Facilities used for Processing and Disposal of Discarded Materials, as applicable for each type of Discarded Material. Franchisee shall pay all costs associated with Transport, Transfer, Processing, and/or Disposal of all Discarded Materials Collected in accordance with this Agreement, including marketing of recovered materials and Disposal of all Residue.

Franchisee shall comply with separate handling requirements described in this Appendix.

#### **H. FRANCHISEE-INITIATED CHANGE IN FACILITY(IES):**

Franchisee may change its selection of one or more of the Approved Facility(ies) following County Contract Administrator's written approval, which may be conditioned on various factors including, but not limited to: the performance of the current versus proposed Facility, the permitting status of and LEA inspection records related to the proposed Facility, the distance of the Facility from the Franchisee Area, and any other factor that may reasonably degrade the value received by the County. If Franchisee elects to use a Facility(ies) that is(are) not listed on the then-current list of Approved Facility(ies) in this Appendix, it shall submit a written request for approval to the County thirty (30) days prior to the desired date to use the Facility and shall obtain the County's written approval prior to use of the Facility. Franchisee's compensation and Rates shall not be adjusted for a Franchisee-initiated change in Facilities.

#### **I. NOTIFICATION OF EMERGENCY CONDITIONS:**

Each Approved Facility shall notify the County of any unforeseen operational restrictions that have been imposed upon the Facility by a regulatory agency or any unforeseen equipment or operational failure that will temporarily prevent the Facility from Processing the Discarded Materials Collected under this



Agreement. Franchisee shall notify the County in accordance with Section 5.7 of the Agreement.

**J. APPROVED FACILITY UNAVAILABLE/USE OF ALTERNATIVE FACILITY:**

If Franchisee is unable to use an Approved Facility due to a sudden unforeseen closure of the Facility or other emergency condition(s) described in this Franchisee Agreement, Franchisee may use an Alternative Facility provided that the Franchisee provides verbal and written notice to the County Contract Administrator and Director and receives written approval from the County Contract Administrator or Director at least twenty-four (24) hours prior to the use of an Alternative Facility to the extent reasonably practical given the nature of the emergency or sudden closure. The Franchisee's written notice shall include a description of the reasons the Approved Facility is not feasible and the period of time Franchisee proposes to use the Alternative Facility. As appropriate for the type of Discarded Materials to be delivered to the Alternative Facility, the Alternative Facility shall meet the applicable Facility standards in this Agreement and shall be sent to: (i) an allowable Facility, operation, or "Organic Waste Recovery Activity" as defined in 14 CCR Section 18982(a)(49) and not subsequently used in a manner deemed to constitute Landfill Disposal pursuant to 14 CCR Section 18983.1(a); (ii) a High Diversion Organic Waste Processing Facility (for two- and one-Container systems and three- and three-plus Container systems in which Organics Waste, such as Food Waste, is allowed for Collection in the Gray Containers); (iii) a "Designated Source Separated Organic Waste Processing Facility" pursuant to 14 CCR Section 18982(a)(14.5) for Source Separated Recyclable Materials and SSGCOW (for Jurisdictions using the Performance-Based Compliance Approach per SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Article 17)); (iv) a Transfer Facility; or, (v) a Disposal Facility. If Franchisee is interested in using a Facility or activity not listed above and not specifically identified in 14 CCR Section 18983.1(b), the Franchisee shall be responsible for securing the approvals from CalRecycle pursuant to 14 CCR Section 18983.2 that the Facility's Process or technology constitutes a reduction of Landfill Disposal pursuant to 14 CCR Section 18983.1(a) prior to the County's final approval of such Facility or activity.

If any Approved Facility specified in this Appendix becomes unavailable for use by Franchisee for Discarded Materials Collected in the County for a period of more than seven (7) days, County may designate an Alternative Facility pursuant to Section 4.13 of this Agreement. The Parties agree that an Approved Facility shall only be deemed to be "unavailable" if one or more of the following has occurred: (i) a Force Majeure event/Uncontrollable Circumstance as described in Section 11.2 of this Agreement has occurred; (ii) a Facility has lost one or more permits to operate; (iii) a Facility has exhibited a pattern of violation through the receipt of repeated notices of violation from one or more regulatory agencies. Further, the Parties agree that a Facility shall only be deemed to be "unavailable" if the lack of availability of the Facility is not due to Franchisee's negligence, illegal activity, neglect, or willful misconduct. At County's request, Franchisee shall research and propose Alternate Facility(ies) for the impacted Discarded Material(s), and shall submit a written analysis and recommendation to the County within seven (7) days concerning the cost for use of Alternative Facility(ies) and any logistical changes that would be required to utilize such Alternative Facility(ies). County and Franchisee will discuss the advantages and disadvantages of use of the potential Alternative Facility(ies) and County will designate the approved Alternative Facility(ies). The decision of the County shall be final. The change in Facility shall be treated as County-directed change in scope pursuant to Section 4.13 of this Agreement.

In the event an Approved Facility becomes unavailable due to the negligence, illegal activity, neglect, or willful misconduct of Franchisee, Franchisee shall bear all additional costs for use of an Alternative Facility including increased Processing costs, Disposal Costs, Transportation costs, Transfer costs, and all other costs.

The table listing Approved Facilities in this Appendix shall be modified accordingly to reflect the new County-Approved Facility(ies).

If Franchisee is not the owner of the new Approved Facility, Franchisee shall enter into a Subcontract

agreement with the Facility operator of the Alternative Facility to require compliance with the requirements of Article 5 of this Agreement and this Appendix unless County Contract Administrator or Director waives one or more requirements.

**K. DISCARDED MATERIALS MONITORING, WASTE EVALUATION, AND CAPACITY PLANNING REQUIREMENTS:**

Franchisee shall conduct material sampling, sorting, and waste evaluations of various material streams as further described in this Appendix 1-E, Section AE. to meet or exceed SB 1383 Regulatory requirements. Upon County request, the Franchisee shall also participate in capacity planning studies. The Franchisee acknowledges that the County is required by SB 1383 to coordinate Organic Waste and Edible Food Recovery capacity planning studies. The Company shall participate and/or provide information to the County as needed for the County's participation in such capacity planning studies. This information and/or participation may include, but is not limited to: conducting or supporting waste characterization studies; providing information regarding existing and potential new or expanded capacity in the Franchisee's operations for the Collection, Transport, Transfer, or Processing of Source Separated Recyclable Materials and Source Separated Organic Materials; and, any other information deemed necessary by the County for purposes of the study. The Franchisee shall respond to requests for information or participation from the County within sixty (60) days, unless another timeframe is otherwise specified or authorized by the County.

**L. COMPLIANCE WITH APPLICABLE LAW:**

Franchisee (including its Affiliates and Subcontractors) warrants throughout the Term that the Approved Facilities are respectively authorized and permitted to accept Discarded Materials in accordance with Applicable Law and are in full compliance with Applicable Law.

**M. RECORDS AND INVESTIGATIONS:**

Franchisee shall maintain accurate records of the quantities of Discard Materials Transported to and Accepted at the Approved Facility(ies) and shall cooperate with County and any regulatory authority in any audits or investigations of such quantities.

**N. INSPECTION AND INVESTIGATIONS:**

An authorized County employee or agent shall be allowed to enter each Facility during normal working hours in order to conduct inspections and investigations in order to examine Facility operations; Processing activities; contamination monitoring; material sampling and sorting activities, including inspection of end-of-line materials after sorting; and records pertaining to the Facility in order to assess compliance with this Agreement, to understand protocols and results, and conduct investigations, if needed. Franchisee shall permit County or its agent to review or copy, or both, any paper, electronic, or other records required by County.

**O. PROCESSING STANDARDS:**

**INFORMATION TO BE INCLUDED BASED ON PROPOSED PROCESSING APPROACH**

**P. RECOVERY REQUIRED:**

Franchisee agrees to Transport and deliver all Source Separated Recyclable Materials, SSBCOW, SSGCOW, Mixed Waste Collected under this Agreement to an Approved Facility for Processing as applicable for each material type. Franchisee shall conduct Processing activities for all Source Separated Recyclable Materials, SSBCOW, SSGCOW, Mixed Waste, and C&D to recover Recyclable materials and Organic Waste to reduce

Disposal. The Processing shall be performed in a manner that minimizes Disposal to the greatest extent practicable and complies with Applicable Law, including SB 1383 Regulations.

**Q. SEPARATE HANDLING REQUIREMENTS:**

1. Franchisee shall keep Source Separated Recyclable Materials, SSBCOW, SSGCOW, Mixed Waste separate from each other and separate from other any other material streams and shall Process the materials separately from each other.
2. Pursuant to 14 CCR Section 17409.5.6(a)(1), Remnant Organic Material separated from the Gray Container Waste for recovery can be combined with Organic Waste removed from the SSGCOW for recovery once the material from the SSGCOW has gone through the Organic Waste recovery measurement protocol described in 14 CCR Sections 17409.5.4 and 17409.5.5.
3. Pursuant to 14 CCR Section 17409.5.6(b) Organic Waste removed from Mixed Waste for recovery shall be:
  - a. Stored away from other activity areas in specified, clearly identifiable areas as described in the Facility Plan or Transfer/Processing Report (which are defined in 14 CCR); and,
  - b. Removed from the Facility consistent with 14 CCR Section 17410.1 and either:
    - i. Transported only to another Facility or operation for additional Processing, composting, in-vessel digestion, or other recovery as specified in this Appendix 1-E, Section U; or,
    - ii. Used in a manner approved by local, State, and federal agencies having appropriate jurisdiction.

**R. RESIDUE DISPOSAL:**

Franchisee shall be responsible for Disposal of Residue from Processing activities at its own expense and shall use the Disposal Facility(ies) for such purpose.

**S. PROCESSING FACILITY RESIDUE GUARANTEES:**

Upon request of the County, Franchisee shall provide a certified statement from the Facility operator documenting its Residue level. The Residue level shall be calculated separately for each material type and for each Approved Facility used for Recycling and Processing. The Residue level calculation method shall be reviewed and approved by the County.

**T. SOURCE SEPARATED RECYCLABLE MATERIALS PROCESSING STANDARDS:**

Franchisee shall arrange for Processing of all Source Separated Recyclable Materials at a Facility that recovers materials designated for Collection in the Blue Container and in a manner deemed not to constitute Landfill Disposal pursuant to 14 CCR Section 18983.1(a), which states that Landfill Disposal includes final deposition of Organic Waste which includes SSBCOW, at a Landfill or use of Organic Waste as Alternative Daily Cover (ADC) or Alternative Intermediate Cover (AIC), in alignment with AB 1594 and SB 1383, the Franchisee shall not use Organic Waste as ADC or AIC.

**U. SSGCOW PROCESSING STANDARDS:**

1. Franchisee shall arrange for Processing of all SSGCOW at a Facility that recovers Source Separated Organic Waste and in a manner deemed not to constitute Landfill Disposal pursuant to 14 CCR Section 18983.1(a) which states that Landfill Disposal includes final deposition of Organic Waste at a Landfill or use of Organic Waste as Alternative Daily Cover (ADC) or Alternative Intermediate Cover (AIC), in alignment with AB 1594 and SB 1383, the Franchisee shall not use Organic Waste as ADC or AIC.
2. Franchisee shall arrange for SSGCOW Processing at an Approved Organic Waste Processing Facility that meets one or more of the following criteria, and such Facility or operation is capable of and permitted to accept and recover the types of Organic Wastes included in the SSGCOW:
  - a. A “Compostable Material Handling Operation or Facility” as defined in 14 CCR Section 17852(a)(12); small composting facilities that are otherwise excluded from that definition; or Community Composting as defined in 14 CCR Section 18982(a)(8). The compostable materials handling operation or Facility shall, pursuant to 14 CCR Section 17867(a)(16), demonstrate that the percentage of Organic Waste in the materials sent to Disposal is:
    - i. On and after January 1, 2022, less than 20 percent (20%); and,
    - ii. On and after January 1, 2024, less than 10 percent (10%).
  - b. An “In-vessel Digestion Operation or Facility” as defined in 14 CCR Section 17896.5. The in-vessel digestion facility or operation shall, pursuant to 14 CCR Section 17896.44.1, demonstrate that the percentage of Organic Waste in the materials sent to Disposal is:
    - i. On and after January 1, 2022, less than 20 percent (20%); and,
    - ii. On and after January 1, 2024, less than 10 percent (10%).
  - c. A “Biomass Conversion Operation” as defined in Section 40106 of the California Public Resources Code.
  - d. Soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a Landfill, that is defined as a reduction in Landfill Disposal pursuant to 14 CCR Section 18983.1(b)(5).
  - e. Land application of compostable materials consistent with 14 CCR Section 17852(a)(24.5) and subject to the conditions in 14 CCR Section 18983.1(b)(6).
  - f. Lawful use as animal feed, as set forth in California Food and Agricultural Code Section 14901 et seq. and Title 3, Division 4, Chapter 2, Subchapter 2 commencing with 14 CCR Article 1, Section 2675.
  - g. Other operations or facilities with processes that reduce short-lived climate pollutants that are approved by the State in accordance with 14 CCR Section 18983.2.

If Franchisee is interested in using an operation, Facility, or activity not expressly identified above and not specifically identified in 14 CCR Section 18983.1(b) for SSGCOW Processing, Franchisee shall be responsible for securing the necessary approvals from CalRecycle, pursuant to 14 CCR Section 18983.2, that the Facility’s Process or technology constitutes a reduction in Landfill Disposal pursuant to 14 CCR Section 18983.1(b)(8) prior to the County’s final approval of such operation, Facility, or activity.

3. Preparation of Materials for Processing. The Franchisee shall be responsible for preparing materials for Processing at the Approved Organic Waste Processing Facility, which shall include, but is not limited to, removal of visible physical contaminants such as plastic, glass, metal, and chemicals prior to size reduction.
4. “Overs” Management. The County may require that at no cost to the County, the Franchisee conduct and provide County-specific Organic Waste Processing Residue and “overs” composition data to the County reflecting then-current conditions and using a sampling protocol acceptable to the County, in its reasonable discretion. In the event that the composition of “overs” includes appreciable quantities of Organic Waste, as determined by Franchisee’s waste evaluation or visual assessment by the County, the Franchisee shall immediately inform the County Contract Administrator and propose a strategy for reducing the “overs” level. At the Franchisee’s expense, Franchisee shall implement the “overs” management strategy within thirty (30) working days of County approval. Such a strategy may include having the Approved Organic Waste Processing Facility re-grind large woody “overs” (after removal of contaminants) and reintroduce the ground “overs” into the composting process in order to increase the recovery of that material and reduce the Organic Waste contained in the materials sent to Disposal, or may include an alternative approach approved by the County.
5. Limits on Incompatible Materials in Recovered Organic Waste
  - a. Limits. Except as described in this Appendix 1-E, Section U.5.c., Franchisee’s Transfer/Processing Facility or operation shall only send offsite that Organic Waste recovered after Processing the SSGCOW that meets the following requirements or as otherwise specified in 14 CCR Section 17409.5.8(a):
    - i. On and after January 1, 2022 with no more than 20 percent (20%) of Incompatible Material by weight; and,
    - ii. On and after January 1, 2024 with no more than 10 percent (10%) of Incompatible Material by weight.
  - b. Measurement. Franchisee shall measure the actual levels of Incompatible Materials in accordance with procedures described in 14 CCR Section 17409.5.8(b).
  - c. Exceptions. The limits in this Appendix 1-E, Section U.5.c., shall not apply to the recovered Organic Waste sent offsite from the Transfer/Processing Facility or operation, if the Franchisee sends the recovered Organic Waste from the Transfer/Processing Facility or operation to one or more of the following types of Facilities that will further Process the Organic Waste, or as otherwise specified in 14 CCR Section 17409.5.8(c):
    - i. A Transfer/Processing Facility or operation that complies with this Appendix 1-E, Section G.;
    - ii. A compostable materials handling facility or operation that, pursuant to 14 CCR Section 17867(a)(16), demonstrates that the percentage of Organic Waste in the materials sent to Disposal is:
      - (A) On and after January 1, 2022, less than 20 percent (20%); and,
      - (B) On and after January 1, 2024, less than 10 percent (10%).
    - iii. An in-vessel digestion Facility or operation that, pursuant to 14 CCR Section

17896.44.1, demonstrates that the percentage of Organic Waste in the materials sent to Disposal is:

(A) On and after January 1, 2022, less than 20 percent (20%); and,

(B) On and after January 1, 2024, less than 10 percent (10%).

- iv. An activity that meets the definition of a recycling center as described in 14 CCR Section 17402.5(d).

**V. HIGH DIVERSION ORGANIC WASTE PROCESSING FACILITY REQUIREMENTS  
(ORGANICS IN GRAY CONTAINER):**

1. Franchisee guarantees that the Approved High Diversion Organic Waste Processing Facility shall meet or exceed an annual average Mixed Waste organic content recovery rate of fifty (50) percent between January 1, 2022 and December 31, 2024, and seventy-five (75) percent after January 1, 2025, or as otherwise defined in 14 CCR Section 18982(a)(33), as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the Mixed Waste.
2. Franchisee guarantees that it will comply with the limits on incompatible materials in the recovered Organic Waste.
3. Franchisee shall conduct measurements on a quarterly basis to determine the Mixed Waste organic content recovery efficiency in accordance with 14 CCR Section 17409.5.1. Franchisee shall report the Organic Waste recovery efficiency measurement results to the County in accordance with Appendix 6 of the Agreement, and shall notify the County within thirty (30) days of conducting the quarterly measurement if the results are not in compliance with the Mixed Waste organic content recovery rate standards. If the quarterly average Mixed Waste organic content recovery rate is not in compliance with the standards, the County may assess Liquidated Damages in accordance with Section 9.3 of this Agreement.
4. If the Approved High Diversion Organic Waste Processing Facility has an annual average Mixed Waste organic content recovery rate that is lower than required in 14 CCR Section 18982(a)(33) for two (2) consecutive quarterly reporting periods or three (3) quarterly reporting periods within three (3) years, the Facility shall not qualify as a High Diversion Organic Waste Processing Facility pursuant to 14 CCR Section 18984.3(b). Franchisee shall be required to submit a corrective action plan to the County within thirty (30) days of determining such non-compliance identifying the steps to improve the Mixed Waste organic content recovery rate and the duration of time anticipated for the Facility to achieve compliance. Franchisee shall immediately commence with corrective actions subject to approval by the County and CalRecycle.
5. If County is not satisfied that the Franchisee can achieve and sustain the minimum required annual average Mixed Waste organic content recovery rate, or if the Franchisee has implemented its corrective action plan and failed to achieve the minimum required annual average Mixed Waste organic content recovery rate, the County shall have the right to direct use of an Alternative Facility in accordance with Section 4.13, and Franchisee shall incur all costs associated with use of the Alternative Facility including Transportation, Transfer, Processing, and Disposal. The County may assess Liquidated Damages in accordance with Section 9.3 of this Agreement and/or may deem this failure an event of default under Section 11.1 of this Agreement. If an Alternative Facility is not available within a commercially reasonable distance, Franchisee shall be required to implement, at no cost to the County and with no increase to Rates, an Organic Waste Collection system that will provide programmatic compliance with 14 CCR Division 7, Chapter 12, Article 3.

## **W. CONSTRUCTION & DEMOLITION (C&D) PROGRAM STANDARDS:**

1. Franchisee shall comply with the County's Construction and Demolition (C&D) Debris Diversion Program.

## **X. PLASTIC BAGS:**

Franchisee shall annually submit to County written notice from the Approved Organic Waste Processing Facility confirming said Facility can remove plastic bags when Processing SSGCOW.

## **Y. COMPOSTABLE PLASTICS:**

Franchisee shall accept Compostable Plastics at the Approved Organic Waste Processing Facility. Franchisee shall annually submit to County written notice from the Approved Organic Waste Processing Facility confirming said Facility can Process and recover these Compostable Plastics.

## **Z. MARKETING:**

Franchisee operating the Approved Facility(ies), shall be responsible for marketing materials recovered from Discarded Materials Collected under this Agreement. Franchisee's marketing methods for materials shall be performed in a manner that supports achievement of Disposal reductions and in such a manner that complies with State statutes, including, but not limited to, AB 901, AB 939, SB 1016, AB 341, AB 1594, AB 1826, and SB 1383, and corresponding regulations. Franchisee shall retain revenues resulting from the sale and marketing of said materials with the exception of the curbside supplemental payments and City/County payments under the California Beverage Container Recycling and Litter Reduction Act, which shall be retained by the County.

Upon request, Franchisee shall provide proof to the County that all Source Separated Recyclable Materials, SSGCOW, Mixed Waste, and C&D Collected by Franchisee were Processed and recovered materials were marketed for recovery, salvage, or Reuse or as organics products in such a manner that materials are not deemed Landfill Disposal pursuant to 14 CCR Section 18983.1(a) and in a manner that materials are deemed Diversion pursuant to AB 939. All Residue from the Recycling and Processing activities that is not marketed shall be reported to the County as Residue and accounted for as Disposal Tonnage at the Designated Disposal Facility. No Source Separated Recyclable Materials, SSGCOW, Mixed Waste, or C&D shall be Transported to a domestic or foreign location if Landfill Disposal, as defined in 14 CCR Section 18983.1(a) of such material is its intended use. If Franchisee becomes aware that a broker or buyer has illegally handled, Disposed of, or used material generated in the County that is not consistent with Applicable Law, Franchisee shall immediately inform the County and terminate its contract or working relationship with such party. In such case, Franchisee shall find an alternative market for the material(s) recovered from the Source Separated Recyclable Materials, SSGCOW, and/or C&D that is compliant with Applicable Law.

The performance of commodity markets for materials recovered from Source Separated Recyclable Materials shall not be considered a reason for deeming a Facility "unavailable", nor shall it be considered an acceptable basis for the need to use an Alternative Facility, nor shall it serve as the basis for any adjustment in Franchisee's compensation under this Agreement.

## **AA. DISPOSAL OF SOURCE SEPARATED RECYCLABLE MATERIALS, SSGCOW, AND MIXED WASTE PROHIBITED:**

With the exception of Processing Residue, Source Separated Recyclable Materials, SSGCOW, or Mixed Waste Collected under this Agreement may not be Disposed of in lieu of Recycling, Processing, or marketing the material, without the expressed written approval of the County Contract Administrator or Director.

If for reasons beyond its reasonable control, Franchisee believes that it cannot avoid Disposal of the Source Separated Recyclable Materials, SSGCOW, or Mixed Waste Collected in the County, then it shall prepare a written request for County approval to Dispose of such material. Such request shall contain the basis for Franchisee's belief (including, but not limited to, supporting documentation), describe the Franchisee's efforts to arrange for the Processing of such material, the period required for such Disposal, and any additional information supporting the Franchisee's request.

In addition, the request shall describe the Franchisee's proposed interim plans for implementation while the County is evaluating its request. If the County objects to the interim plans, the County shall provide written notice to the Franchisee and request an alternative arrangement. The County shall consider the Franchisee's request and inform Franchisee in writing of its decision within fourteen (14) days. Depending on the nature of the Franchisee's request, County may extend the fourteen (14) day period, at its own discretion, to provide more time for evaluation of the request and negotiation of an acceptable arrangement with the Franchisee.

#### **AB. GRAY CONTAINER WASTE DISPOSAL STANDARD (WITHOUT ORGANIC WASTE):**

- 1) **Disposal of Gray Container Waste Collected.** Franchisee shall Transport all Gray Container Waste Collected under this Agreement to the Designated Disposal Facility.
- 2) **Disposal at Designated Facility.** Franchisee shall not Dispose of Gray Container Waste or Residue by depositing it on any public or private land, in any river, stream, or other waterway, or in any sanitary sewer or storm drainage system or in any other manner which violates Applicable Laws.

#### **AC. WEIGHING OF DISCARDED MATERIALS:**

- 1) **Maintenance and Operation.** This Section AC. of Appendix 1-E applies to motor vehicle scales used at the Approved Facilities. Approved Facilities shall be equipped with one or more State-certified motor vehicle scales in accordance with Applicable Law. Upon request, Franchisee shall arrange for Facility operator to provide documentary evidence of such scale certification within ten (10) days of County's request during the Term. Licensed weigh master(s) shall operate those scales to weigh all inbound and outbound Collection vehicles Transporting Discarded Materials and all Transfer vehicles Transporting materials to another site. Franchisee shall arrange for Facility operator to provide County with access to weighing information at all times and copies thereof within three (3) Business Days following the County's request. Exceptions to weighing requirements are specified in this Appendix 1-E, Section AC.7.
- 2) **Vehicle Tare Weights for Approved Facility(ies).** Within thirty (30) days prior to the Commencement Date, Franchisee shall coordinate with the Facility operator(s) to ensure that all Collection vehicles used by Franchisee to Transport Discarded Materials to Approved Facilities are weighed to determine unloaded ("tare") weights. Franchisee shall work with Facility operator(s) to electronically record the tare weight, identify vehicle as Franchisee's, and provide a distinct vehicle identification number for each vehicle. Franchisee shall provide County with a report listing the vehicle tare weight information upon request. Franchisee shall promptly coordinate with Facility operator to weigh additional or replacement Collection vehicles prior to Franchisee placing them into service. Franchisee shall check tare weights at least annually, or within fourteen (14) days of a County request, and shall re-tare vehicles immediately after any major maintenance service that could impact the weight of the vehicle by more than fifty (50) pounds.
- 3) **Substitute Scales.** If any scale at an Approved Facility is inoperable, being tested, or otherwise unavailable, Facility operator shall use reasonable business efforts to weigh vehicles on the remaining operating scale(s). To the extent that all the scales are inoperable, being tested, or otherwise unavailable, Facility operator shall substitute portable scales until the permanent scales are replaced or repaired. Facility operator shall arrange for any inoperable scale to be repaired as soon as possible.



- 4) **Estimates.** Pending substitution of portable scales or during power outages, Facility operator shall estimate the Tonnage of the Discarded Materials Transported to and accepted at the Approved Facilities by utilizing the arithmetic average of each vehicle's recorded Tons of Discarded Materials delivered on its preceding three (3) deliveries.

During any period of time the scales are out of service, Facility operator shall continue to record all information required by this Appendix 1-E, for each delivery of Discarded Materials to the Approved Facilities and each load of material Transferred to another Approved Facility(ies).

- 5) **Weighing Standards and Procedures.** At the Approved Facilities, Facility operator shall weigh and record inbound weights of all vehicles delivering Discarded Materials when the vehicles arrive at the Facility. In addition, Facility operator shall weigh and record outbound weights of vehicles for which Facility operator does not maintain tare weight information. Furthermore, Facility operator shall weigh and record outbound weights of all Transfer vehicles Transporting Discarded Materials from a Transfer Facility to another Approved Facility(ies) for Processing or Disposal.
- 6) **Records.** Facility operator shall maintain scale records and reports that provide information including date of receipt, inbound time, inbound and outbound weights (or tare weights) of vehicles, vehicle identification number, jurisdiction of origin of materials delivered, type of material, company/hauler identification, and classification, type, weight, and final destination of Discarded Material if the Discarded Materials are Transferred to another Approved Facility(ies).
- 7) **Exceptions to Weighing Requirements.** If an Approved Facility does not have motor vehicle scales to weigh Franchisee's vehicles and Discarded Materials delivered to the Facility, Franchisee shall obtain a receipt for delivery of the Discarded Materials that identifies the date and time of delivery, the type of material delivered, and the vehicle number. Franchisee or Facility operator shall estimate the Tonnage of material delivered for each load based on the volumetric capacity of the vehicle and material density factors (e.g., pounds per cubic yard) approved by or designated by the County Contract Administrator or Director.
- 8) **Upon-Request Reporting.** If vehicle receiving and unloading operations are recorded on video cameras at the Approved Facilities, Franchisee shall make those videos available for County review during the Approved Facilities' operating hours, upon request of the County, and shall provide the name of the driver of any particular load if available.

#### **AD. REJECTION OF EXCLUDED WASTE:**

- 1) **Inspection.** Franchisee will use standard industry practices to detect and reject Excluded Waste in a uniform and non-discriminatory manner and will not knowingly accept Excluded Waste at the Approved Facility(ies). Franchisee will comply with the inspection procedure contained in its permit requirements. Franchisee will promptly modify that procedure to reflect any changes in permits or Applicable Law.
- 2) **Excluded Waste Handling and Costs.** Franchisee will arrange for or provide handling, Transportation, and delivery to a Recycling, incineration, or a Disposal facility permitted in accordance with Applicable Law of all Excluded Waste detected at the Approved Facility(ies). Franchisee is solely responsible for making those arrangements or provisions and all costs thereof. Nothing in this Agreement will excuse the Franchisee from the responsibility of handling Excluded Wastes that Franchisee inadvertently accepts in a lawful manner and of arranging for the disposition of that Excluded Waste in accordance with Applicable Law.

#### **AE. DISCARDED MATERIALS EVALUATIONS AT APPROVED FACILITIES:**

- 1) **General.** Franchisee shall conduct the following “evaluations” at Approved Facilities if required by Applicable Law referenced below:
  - a) Organic Waste Recovery Efficiency Evaluations. If applicable pursuant to 14 CCR Sections 17409.5.1 to 17409.5.5 and 17409.5.8, Franchisee shall conduct waste evaluations at Approved Transfer Facility (if applicable) or Approved Processing Facility(ies) in accordance with 14 CCR Sections 17409.5.1 to 17409.5.5 and 17409.5.8.
  - b) Evaluation of Organic Waste in Residuals. If applicable pursuant to 14 CCR Sections 17409.5.3, 17409.5.5, 17867, and/or 17896.44.1, Franchisee shall conduct compliance evaluations of Organic Waste to determine the level of Organic Waste in materials sent for Disposal in accordance with 14 CCR Sections 17409.5.3 (transfer/processor for Mixed Waste), 17409.5.5 (transfer/processor for SSGCOW/SSBCOW), 17867 (Compost operations and facilities), and 17896.44.1 (In-vessel digestion operations and facilities).
- 2) **Record Keeping and Reporting.** For the evaluations described above, Franchisee shall maintain all records and submit reports to CalRecycle as described in 14 CCR Division 7, Chapter 3, Article 6.3; 14 CCR Division 7, Chapter 3.1, Article 8; and 14 CCR Division 7, Chapter 3.2, Article 4; and, 14 CCR Sections 18815.5 and 18815.7, as applicable. Franchisee shall report this information to the County on a monthly basis in accordance with Appendix 6.
- 3) **Scheduling of Evaluations.** Franchisee shall schedule evaluations during normal working hours. Franchisee shall provide County notice of its intent to conduct evaluations at the Approved Facility(ies) at least fourteen (14) days in advance of the evaluations.
- 4) **Observance of Study by County and/or CalRecycle.** Franchisee acknowledges that, upon request, a representative of the County, the LEA, and/or CalRecycle may oversee its next scheduled quarterly sampling and evaluation of any of the evaluations described in this Appendix 1-E, conducted at the Approved Facility(ies).

## APPENDIX 2-A

### MAXIMUM RATES FOR RESIDENTIAL SERVICE

#### CR&R RESIDENTIAL CURBSIDE CART RATES AND SERVICE LEVELS FRANCHISE AREA 9

##### Residential Curbside Customer Rates\*

Row	Service Level	Franchise Area 9
		Rancho Mission Viejo
1	Basic Service - # of Accts (1)	\$ 20.95
2	Senior Discount - 10%	\$ 18.86
3	Extra Recycling Cart - # of Carts	\$ 3.67
4	Extra Organics Cart - # of Carts	\$ 7.05
5	Extra Waste Cart - # of Carts	\$ 7.53
6	Extra Bulky Item Pickup Above 3 per Year	\$ 32.38
7	Extra Pickup per Cart - Residential Accounts (2)	\$ 32.38
	Other Services	
9	Special access vehicle P6Z (3)	
10	Senior/Low Income Discount - Special access vehicle P6Z (3)	
11	Private Roads/Valet Service - Burro P6X(4)	
12	2X a week Curbside Service	
13	2X a week Walk-In Service	

## APPENDIX 2-B MAXIMUM RATES FOR COMMERCIAL

### CR&R MULTI-FAMILY AND COMMERCIAL BIN RATES FRANCHISE AREA 9

Monthly Rates*		
Row	Service Level	FA 9
		Rancho Mission Viejo
	<b>2 CY Refuse Bin</b>	
1	1x/week	\$ 151.64
2	2x/week	\$ 280.53
3	3x/week	\$ 399.76
4	4x/week	\$ 513.02
5	5x/week	\$ 622.04
6	6x/week	\$ 727.78
7	Extra Pickup	\$ 75.82
	<b>3 CY Refuse Bin</b>	
8	1x/week	\$ 162.47
9	2x/week	\$ 300.57
10	3x/week	\$ 428.31
11	4x/week	\$ 549.66
12	5x/week	\$ 666.47
13	6x/week	\$ 779.77
14	Extra Pickup	\$ 81.23
	<b>4 CY Refuse Bin</b>	
15	1x/week	\$ 173.30
16	2x/week	\$ 320.61
17	3x/week	\$ 456.86
18	4x/week	\$ 586.31
19	5x/week	\$ 710.90
20	6x/week	\$ 831.75
21	Extra Pickup	\$ 86.65
	<b>Locked 3 CY Refuse Bin</b>	
22	1x/week	\$ 187.47
23	2x/week	\$ 346.82
24	3x/week	\$ 494.22
25	4x/week	\$ 634.24
26	5x/week	\$ 769.02
27	6x/week	\$ 899.75
28	Extra Pickup	\$ 93.73
	<b>Locked 4 CY Refuse Bin</b>	
29	1x/week	\$ 198.30
30	2x/week	\$ 366.86
31	3x/week	\$ 522.77
32	4x/week	\$ 670.89
33	5x/week	\$ 813.45
34	6x/week	\$ 951.74
35	Extra Pickup	\$ 99.15
	<b>2 CY Organics Bin</b>	
36	1x/week	\$ 203.58
37	2x/week	\$ 376.62
38	3x/week	\$ 536.69
39	4x/week	\$ 688.75
40	5x/week	\$ 835.11
41	6x/week	\$ 977.08
42	Extra Pickup	\$ 101.79
	<b>Manure Collection</b>	
43	Specify Container Size: 2 CY	
44	1x/week	\$ 193.31
45	2x/week	\$ 357.63
46	3x/week	\$ 509.62
47	4x/week	\$ 654.02
48	5x/week	\$ 793.00
49	6x/week	\$ 927.81
50	Extra Pickup	\$ 96.66
51	Recycling Bin (all sizes): Recycling Bins and Extra Pickups at no additional charge	

**MULTI-FAMILY AND COMMERCIAL CART  
RATES AND SERVICE LEVELS  
FRANCHISE AREA 9**

**Monthly Customer Rates\***

Row	Service Level	Franchise Area 9
		Rancho Mission Viejo
	<b>65-Gallon Organics Cart</b>	
1	1x/week	\$ 158.10
2	2x/week	\$ 292.49
3	3x/week	\$ 416.80
	<b>Any Size Refuse Cart</b>	
4	1x/week	\$ 102.63
5	2x/week	\$ 189.86
6	3x/week	\$ 270.56
7	4x/week	\$ 347.21
8	5x/week	\$ 421.00
9	6x/week	\$ 492.57
	<b>Any Size Recycling Cart</b>	
10	1x/week: Recycling Cart at no charge	

## APPENDIX 2-C

### MAXIMUM RATES FOR OTHER SERVICES

#### CR&R ROLL-OFF CONTAINER RATES FRANCHISE AREA 9

##### Customer Rates

Row	Service Level	Franchise Area 9
		Rancho Mission Viejo
	<b>Monthly Customer Rates*</b>	
1	31-40 CY Roll-Off (Standard)	\$ 493.00
2	Over 40 CY Roll-Off	\$ 493.00
3	21-30 CY Compactor	\$ 565.90

#### CR&R RATES FOR OTHER SERVICES FRANCHISE AREA 9

##### Rates Per Occurrence for Other Services\*

Row	Service	Franchise Area 9
		Rancho Mission Viejo
1	Bin cleaning above 1x yr per Section 4.3.D	\$ 70.00

## APPENDIX 3-A

### EXAMPLE RATE ADJUSTMENT CALCULATION FOR 7/1/2022

Bureau of Labor Statistics

CPI for All Urban Consumers (CPI-U)  
Original Data Value

Series Id: CUSR0000SEHG  
Seasonally Adjusted  
Series Title: Water and sewer and trash collection services in U.S.  
Area: U.S. city average  
Item: Water and sewer and trash collection services  
Base Period: DECEMBER 1997=100  
Years: 2011 to 2021

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	HALF1	HALF2
2011	175.680	176.822	177.543	178.119	178.706	179.304	179.862	180.111	181.475	181.794	182.370	183.219		
2012	183.960	185.051	185.999	187.400	187.921	189.068	189.776	191.422	191.777	192.337	193.119	193.706		
2013	194.548	195.060	195.671	196.180	196.872	197.503	198.145	198.366	198.742	199.822	200.186	200.661		
2014	201.127	201.736	202.363	202.930	203.260	203.791	205.073	205.900	206.330	207.704	208.734	209.853		
2015	210.090	210.981	211.468	211.987	212.729	213.299	213.986	215.560	216.143	216.550	217.124	217.742		
2016	218.191	218.681	219.417	220.319	221.497	221.680	221.530	222.383	223.102	223.631	224.493	225.013		
2017	226.207	226.972	227.350	227.896	228.482	228.825	229.171	229.639	230.173	230.855	231.607	232.094		
2018	232.750	233.600	234.039	234.886	235.933	236.696	237.342	238.320	238.579	239.183	241.825	242.425		
2019	241.369	241.783	242.449	243.242	243.841	244.536	245.090	245.421	246.009	246.979	247.373	247.730		
2020	248.614	249.552	250.214	250.450	251.016	251.671	252.546	253.826	254.378	254.992	255.628	256.572		
2021	257.483	258.557												
Average	252.455													
Change in CPI	0.0154													

Source: Bureau of Labor Statistics

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## APPENDIX 3-B

### EXAMPLE FRANCHISE FEE ADJUSTMENT CALCULATION

#### OC Waste & Recycling

#### Annual Exclusive Franchise Fee Adjustment

Effective July 1, 2020

#### SAMPLE

Month 1	(1-(July 2018 ÷ July 2019))	3.16%
Month 2	(1-(August 2018 ÷ August 2019))	2.88%
Month 3	(1-(September 2018 ÷ September 2019))	2.91%
Month 4	(1-(October 2018 ÷ October 2019))	3.09%
Month 5	(1-(November 2018 ÷ November 2019))	3.13%
Month 6	(1-(December 2018 ÷ December 2019))	2.87%
Month 7	(1-(January 2019 ÷ January 2020))	2.98%
Month 8	(1-(February 2019 ÷ February 2020))	3.25%
Month 9	(1-(March 2019 ÷ March 2020))	1.91%
Month 10	(1-(April 2019 ÷ April 2020))	0.69%
Month 11	(1-(May 2019 ÷ May 2020))	0.85%
Month 12	(1-(June 2019 ÷ June 2020))	1.35%

Average	2.42%
---------	-------

#### Franchise Fee

Effective

1-Jul-2020

Base Rate

Base Rate		Average Change in Monthly CPI for Previous		Increase
\$300,000.00	X	( 2.42% )	=	\$7,267.88
(A)				(B)

#### Franchise Fee

Effective

1-Jul-2021

(A) + (B) = \$307,267.88



**CPI for All Urban Consumers (CPI-U)**  
**Original Data Value**

Series Id: CUURS49ASA0

Not Seasonally Adjusted

Series Title: All items in Los Angeles-Long Beach-Anaheim, CA, all urban

Area: Los Angeles-Long Beach-Anaheim, CA

Item: All items

Base Period: 1982-84=100

Years: 2010 to 2020

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2010	224.610	224.620	225.483	225.916	226.438	225.877	225.991	226.373	226.048	226.794	225.941	226.639	225.894	225.491	226.298
2011	228.652	229.729	232.241	233.319	233.367	232.328	231.303	231.833	233.022	233.049	232.731	231.567	231.928	231.606	232.251
2012	233.441	234.537	236.941	236.866	237.032	236.025	235.776	237.222	238.104	240.111	237.675	236.042	236.648	235.807	237.488
2013	238.015	239.753	239.995	239.043	239.346	239.223	238.920	239.219	239.611	239.940	238.677	238.742	239.207	239.229	239.185
2014	239.857	241.059	242.491	242.437	243.362	243.528	243.727	243.556	243.623	243.341	241.753	240.475	242.434	242.122	242.746
2015	239.724	241.297	243.738	243.569	246.093	245.459	247.066	246.328	245.431	245.812	245.711	245.357	244.632	243.313	245.951
2016	247.155	247.113	247.873	248.368	249.554	249.789	249.784	249.700	250.145	251.098	250.185	250.189	249.246	248.309	250.184
2017	252.373	253.815	254.525	254.971	255.674	255.275	256.023	256.739	257.890	258.883	259.135	259.220	256.210	254.439	257.982
2018	261.235	263.012	264.158	265.095	266.148	265.522	266.007	266.665	268.032	269.482	268.560	267.631	265.962	264.195	267.730
2019	269.468	269.608	271.311	273.945	274.479	274.380	274.682	274.579	276.054	278.075	277.239	275.553	274.114	272.199	276.030
2020	277.755	278.657	276.589	275.853	276.842	278.121									
							3.16%	2.88%	2.91%	3.09%	3.13%	2.87%			
	2.98%	3.25%	1.91%	0.69%	0.85%	1.35%									

Average of 12 previous months Year over Year  
2.42%

## APPENDIX 4

### IMPLEMENTATION AND COMPLIANCE PLAN

COUNTY OF ORANGE IMPLEMENTATION PLAN OF ACTION (IPOA)											
Programs and Tasks	Agency Responsible	Year:2021									
		March	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Franchise Approval	County			X							
<b>1. Asset Purchases</b>											
Vehicles Ordered	CR&R		X								
Residential Containers Ordered	CR&R		X								
Negotiate Existing Container Deal w/ Incumbent Hauler(s)	CR&R			X	X						
Commercial Bins Ordered	CR&R		X								
Order Container and Bin Decals	CR&R			X							
<b>2. Brochures and Outreach</b>											
Develop and Finalize Transitional Outreach and Education Plan	CR&R & County			X	X						
Letter from County announcing new programs	CR&R & County			X	X						
Develop and Mail Introductory mailer sent to customers - Transitional Dates, Service Levels, Programs	CR&R				X						
Develop New Residential "How-to" Recycling Guide	CR&R			X	X						
Develop New Commercial "How-to" Recycling Guide	CR&R			X	X						
Develop New Multi-family "How-to" Recycling Guide	CR&R			X	X						
Develop printed signage & posters for Multi-Family and Commercial Properties	CR&R			X	X						
Develop PSAs for distribution through various mediums	CR&R			X	X						
Develop required Bill Inserts	CR&R			X	X						
County Review and Approvals of Recycling Guide and outreach items	County			X	X						
If desired, schedule County Workshop meeting	County			X	X						
Develop Newsletter ideas, issues & articles	CR&R					X	X	X			
SFD Cart Lid graphics development and County approval	CR&R			X	X						
Develop Cart Tags	CR&R			X	X						
Identify HOA's and offer workshops	CR&R & County			X	X	X					
County Specific Website Pages for County approval	CR&R			X	X	X					
Commence Recycling Outreach & Field Surveys	CR&R			X	X	X	X				
Community workshops	CR&R			X	X	X					
Quarterly Newsletters	CR&R								X		
Identify Multiple-cart customers and contact as needed	CR&R				X	X					
Develop Food Recovery Outreach & Education	CR&R				X	X					
Develop and Submit Annual Public Education Plan	CR&R				X	X					
						X				X	
<b>3. Customer Information</b>											
Preliminary Review of Existing Customer Data Base	CR&R			X	X						
Identify Multiple-cart customers and contact as needed	CR&R			X	X	X					
Route Sheets reviewed and revised	CR&R			X	X						
Customer Data Base Updated with Route #'s	CR&R				X						
Multi-Family Customers Identified and Routed	CR&R				X						
Commercial Field Surveys start/finish	CR&R			X	X	X					
<b>4. Start-Up</b>											
County Staff meeting(s)	County & CR&R	X	X	X	X	X	X	X	X	X	X
Recycling Coordinator(s) - Initiate Recruitment(s), Hire and Train	CR&R			X	X	X					
CSRs Recruited, Hired and Trained (as needed)	CR&R			X	X						
Driver Interviews and Offers (as needed)	CR&R			X	X						
Driver Training (as needed)	CR&R			X	X						
CSR Manual Completed	CR&R			X	X						
Route Supervisor(s) identified	CR&R			X	X						
Residential Container and Kitchen Pail deliveries (as needed)	CR&R				X						
Commercial Bin deliveries (as needed)	CR&R				X						
Commence Service	CR&R					X					
Residential Commingled Characterization Studies	CR&R								X		
Commercial MSW Characterization Studies	CR&R								X		
Roll-off MSW Permanent Characterization Studies	CR&R								X		
Commercial Organics Characterization Studies	CR&R								X		
Roll-off C&D Characterization Studies	CR&R								X		

## APPENDIX 5

### OUTREACH AND EDUCATION PLAN

APPENDIX 5 - Outreach & Education Plan											
COUNTY OF ORANGE PUBLIC OUTREACH & EDUCATION PLAN											
Tasks	Agency Responsible	Year:2021									
		Mar	April	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Award of Contract	County			X							
Recycling Coordinator(s) - Initiate Recruitment(s), Hire and Train	CR&R			X	X	X					
CSRs Recruited, Hired and Trained	CR&R			X	X						
Develop and Finalize Transitional Outreach and Education Plan	CR&R & County			X	X						
Letter from County announcing new programs	CR&R & County				X						
Develop and Mail Introductory mailer sent to customers - Transitional Dates, Service Levels, Programs	CR&R				X						
Develop New Residential "How-to" Recycling Guide	CR&R			X	X						
Develop New Commercial "How-to" Recycling Guide	CR&R			X	X						
Develop New Multi-family "How-to" Recycling Guide	CR&R			X	X						
Develop printed signage & posters for Multi-Family and Commercial Properties	CR&R			X	X						
Develop PSAs for distribution through various mediums	CR&R			X	X						
Develop required Bill Inserts	CR&R			X	X						
County Review and Approvals of Brochures	County			X	X						
If desired, schedule County Workshop meeting	County			X	X						
Develop Newsletter ideas, issues & articles	CR&R					X	X				
SFD Cart Lid graphics development and County approval	CR&R			X	X						
Develop Cart Tags	CR&R			X	X						
Identify HOA's and offer workshops	CR&R & County			X	X						
County Specific Website Pages for County approval	CR&R			X	X						
Commence Recycling Outreach & Field Surveys	CR&R			X	X						
Community workshops	CR&R			X	X						
Quarterly Newsletters	CR&R								X		
Identify Multiple-cart customers and contact as needed	CR&R				X	X					
Develop Food Recovery Outreach & Education	CR&R				X	X					
Develop and Submit Annual Public Education Plan	CR&R				X	X				X	

## APPENDIX 6

### RECORD KEEPING AND REPORTING

#### A. GENERAL

Franchisee shall maintain such accounting, statistical, and other records related to its performance under this Agreement as shall be necessary to develop the reports required by this Agreement or Orange County Code. Franchisee agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with applicable laws and regulations and to meet the reporting and Discarded Materials Collection, Processing, and Disposal program management needs of the County. At the written direction or approval of County, the records and reports to be maintained and provided by Franchisee in accordance with this Appendix and other Articles of the Agreement may be adjusted in number, format, and frequency, if required to comply with State or federal regulatory or reporting requirements.

Information from Franchisee's records and reports can be used to, among other things:

- Determine and set Rates and evaluate the financial efficacy of operations;
- Evaluate past and expected progress toward achieving the Franchisee's Landfill Disposal reduction or goals and objectives;
- Provide concise and comprehensive program information and metrics for use in fulfilling reporting requirements under Applicable Law;
- Determine needs for adjustment to programs;
- Evaluate Customer service and Complaints; and,
- Determine Customer compliance with AB 341, AB 1826, and SB 1383 statutes and corresponding regulations; and, any subsequent State-mandated Landfill Disposal reduction, Recycling, recovery, or Diversion statutes, regulations, or other requirements.

#### B. RECORD KEEPING

- 1) **General.** Franchisee shall maintain Customer contact data, Customer service, accounting, statistical, operational, and other records related to its performance as shall be necessary to provide reporting required by this Agreement and Applicable Law and to demonstrate compliance with this Agreement and Applicable Law (such as, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations).

Record keeping and reporting requirements specified in this Agreement shall not be considered a comprehensive list of reporting requirements. In particular, this Appendix 6 is intended to highlight the general nature of records and reports and their minimum content and is not meant to comprehensively define the scope and content of the records and reports that Franchisee is required to maintain and report by Applicable Law or this Agreement. Upon written direction or approval of County, the records and reports required by Franchisee in accordance with this and other Articles of the Agreement shall be adjusted in number, format, or frequency.

Franchisee shall maintain adequate records, and corresponding documentation, of information required by Sections C and D of this Appendix, such that the Franchisee is able to produce accurate monthly and annual reports and is able to provide records to verify such reports. Franchisee will make these records available and provide to the County any record or documentation necessary for the County to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations; and, other current or future federal, State, or local statutes and regulations, as amended. Upon request by the County, Franchisee shall provide access to Franchisee's requested records in a timely manner, not to exceed five (5) Business Days from the time of County's request to Franchisee.

- 2) **Record Retention and Security.** Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed, pursuant to this Appendix. Franchisee's records shall be stored in one central location, physical or electronic, that can be readily accessed by Franchisee. County reserves the right to require the Franchisee to maintain the records required herein through the use of a County-selected web-based software platform, at Franchisee's expense. Unless otherwise required in this Appendix, Franchisee shall retain all records and data required to be maintained by this Agreement for the Term of this Agreement plus five (5) years after its expiration or earlier termination.

Records and data shall be in chronological and organized form and readily and easily interpreted. Franchisee shall maintain adequate record security to preserve records from events that can be reasonably anticipated such as a fire, theft, and an earthquake. Electronically maintained data and records shall be protected and backed-up. To the extent that Franchisee utilizes its computer systems to comply with record keeping and reporting requirements under this Agreement, Franchisee shall, on a monthly basis, save all system-generated reports supporting those record keeping and reporting requirements in a static format in order to provide an audit trail for all data required.

- 3) **Maintenance of Financial and Operational Records.** Franchisee shall maintain financial and operational records in accordance with Section 9.4.
- 4) **CERCLA Defense Records.** Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the County was landfilled (and therefore establish where it was not landfilled) and provide a summary copy of the reports required in Appendix 6, Section E for not less than five (5) years following the termination of this Agreement, and agrees to notify County Director before destroying such records thereafter. At any time, including after the expiration of the Term hereto, Franchisee shall provide copies of such records to County in the form required by County, which may be in an electronic format. Franchisee shall continue to retain records for five (5) years after the term during which Collection services are to be provided pursuant to this Agreement. Franchisee agrees to notify the County's Risk Manager and the County Attorney at least ninety (90) days before destroying such records. The requirements of this section shall survive the expiration of the Term of this Agreement.
- 5) **Compilation of Information for State Law Purposes.** Franchisee shall maintain accurate records for its operation, including, but not limited to, Discarded Materials quantities Collected and quantities Transported to or Transferred to each Approved/Designated Facility, listed separately by material type, Customer type, and Facility. Records shall be maintained in such form by methods that facilitate the use of data for the production of reports as needed. Franchisee will make these records available and provide to the County any record or documentation necessary for the County to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, AB 1595, and SB 1383 statutes and corresponding regulations; and, other current or future local, federal or State statutes and regulations, as amended.

### **C. Audits and Inspection by County**

At a mutually agreed upon time during normal business hours, but within five (5) work days of a written request, Franchisee shall make available to the County for examination at reasonable locations within the County the Franchisee's data and records with respect to the matters covered by this Agreement and the Orange County Code. Franchisee shall permit the County, or its designee, to audit, examine, and make excerpts or transcripts from such data and records, and make audits of all data relating to all matters covered by this Agreement and the Orange County Code. Franchisee shall maintain such data and records in an accessible location and condition for a period of not less than five (5) years following the County's receipt of final payment under this Agreement unless the County agrees in writing to an earlier disposition. The County, or its designee, shall maintain the confidentiality of the Franchisee's Customer list and other proprietary information, to the extent allowed by law.

### **D. Reporting - General**

- 1) **General Purpose.** Reports are intended to compile recorded data into useful forms of information that can be used by the County. All reports shall be adequate to meet County's current and future reporting requirements to CalRecycle, including but not limited to AB 939, AB 341, AB 1826, and SB 1383 statutes and corresponding

regulations, or any other State or federal agency statutes and regulations throughout the Term of this Agreement.

- 2) **Failure to Report.** Failure of Franchisee to comply with the reporting requirements as set forth in this Section may result in an assessment of Liquidated Damages in accordance with the Liquidated Damages provision in Section 9.3 of this Agreement. Franchisee's repeated failure to submit reports, and/or failure to submit reports on time, may be deemed an event of default and may result in the termination of the Agreement at the discretion of the County Contract Administrator or Director, in accordance with Section 11.1 of this Agreement.

3) **Report Format**

County shall provide to Franchisee the format for each report submittal not later than thirty (30) days prior to the due date for such report. If County fails to specify the format as required, Franchisee shall use the report format specified for the prior reporting period.

- 4) **Submittal Process.** All reports shall be submitted to the County, or as directed by the County Contract Administrator or Director. Reports shall be submitted electronically via email or uploaded to a document sharing platform agreed upon by the Parties. County reserves the right to require the Franchisee to maintain records and submit the reports required herein through use of a County-selected web-based software platform, at the Franchisee's expense.

Monthly reports shall be submitted within fifteen (15) days after the end of the reporting month; and annual reports shall be submitted within forty-five (45) days after the end of the reporting year.

**E. Reporting - Monthly Reports**

Monthly reports shall be submitted by Franchisee to County and shall include the following information pertaining to the most recently-completed calendar month. In addition, each monthly report shall include a year-to-date summary page that includes the data submitted from the monthly report(s) submitted in the calendar year prior to the submittal of the current monthly report. Franchisee shall report the information included in the following subsections.

1) **Tonnage Report**

- a. Franchisee shall report the total quantities in Tons of Discarded Materials Collected, Transferred, Processed, and Disposed by the Franchisee, all of which shall be based on actual certified scale weights for each load, if available, or similarly accurate methodology pursuant to weighing protocols in Section AC of Appendix 1-E. Tonnage shall be reported separately by:
  - i. Material type, which shall include, at a minimum, separate reporting of Source Separated Recyclable Materials, SSGCOW, Mixed Waste, Gray Container Waste, and any other type of Discarded Material separately Collected by Franchisee (including, but not limited to: Bulky Items, dirt, rock, metals, cardboard, wood waste, Reusable Items, Salvageable Materials, etc.);
  - ii. Customer/sector type (Single-Family, Multi-family, Commercial Roll-off); and,
  - iii. Approved Facility and Facility type.
- b. Report Residue level and Tonnage for all Discarded Materials processed, listed separately by material type Collected and Approved Facility(ies) used.
- c. Source Separated Recyclable Materials Tonnage Marketed, by commodity, and including average commodity value for each, and Processing Residue Tonnage Disposed, listed separately by material type Collected and Approved Facility(ies) used.
- d. Documentation of all Discarded Materials exported out of State, as provided in 14 CCR Sections 18800 through 18813.
- e. A summary of abandoned materials incidents, including: total number of incidents, the address of each incident,

and a copy of all abandoned materials reports submitted to the County pursuant to Section 6.12 of this Agreement.

## **2) Collection and Subscription Report**

- a. Number of Containers at each Service Level by Customer Type and program, including:
  - i. A summary of the total gallons of Cart service, cubic yards of Bin service, and pulls; and cubic yards or Tons of Drop Box and Compactor service by Customer Type.
  - ii. Calculation of the average volume of service received per: Single-Family Dwelling Unit (separately identifying Dwelling Units in a duplex, triplex, or fourplex); Multi-Family Dwelling Unit; and, Commercial Customer.
- b. A summary of Customer subscription data, including the number of accounts; the number of Customers subscribing to each Cart, Bin, and Roll-Off Service Level listed separately for Single-Family, Multi-Family, and Commercial and separately for each type of Discarded Material; and the number of Bulky Items Collections performed.
- c. List of all Commercial and Multi-Family Customers with a Gray Container Waste or Mixed Waste Service Level of two (2) cubic yards of service capacity per week or more. Such list shall include each such Customer's service address and Gray Container Waste, Mixed Waste, Source Separated Recyclable Materials, and SSGCOW Service Levels.
- d. Number of Bulky Item/Reusable Materials Collection events by Customer Type.

## **3) Contamination Monitoring Report**

### **Option 1: Hauler Route Reviews**

The Franchisee shall submit the following information regarding contamination monitoring Hauler Route reviews conducted pursuant to Section 5.6 of this Agreement:

- a. The number of Hauler Route reviews conducted pursuant to Section 5.6 of this Agreement;
- b. Description of the Franchisee's process for determining the level of contamination;
- c. Summary report of non-Collection notices, and courtesy Collection notices issued, which for each notice shall include the date of issuance, Customer name, and service address.
- d. A record of each inspection and contamination incident, which shall include, at a minimum:
  - i. Name of the Customer
  - ii. Address of the Customer
  - iii. The date the contaminated Container was observed
  - iv. The staff who conducted the inspection
  - v. The total number of violations found and a description of what action was taken for each
  - vi. Copies of all notices issued to Generators with Prohibited Container Contaminants
  - vii. Any photographic documentation or supporting evidence.
- e. Documentation of the total number of Containers Disposed of due to observation of Prohibited Container Contaminants;
- f. Any other information reasonably requested by the County or specified in contamination monitoring provisions of this Agreement.

## **Option 2: Waste Evaluations**

The Franchisee shall submit the following information regarding waste evaluations conducted pursuant to Section 5.6 of this Agreement:

- a. A description of the Franchisee's process for conducting waste evaluations.
- b. Documentation of the results of the waste evaluation studies, including information on and the number of targeted Hauler Route reviews conducted as a result of the waste evaluations. The documentation shall at a minimum include: dates of the studies; the location of the Facility where the study was performed; Hauler Routes from which samples were collected, and number of Generators on those Hauler Routes; the source sector (Customer type) of the material (Single-Family, Multi-Family, or Commercial); number of samples collected; total sample size (in pounds); weight of Prohibited Container Contaminants (in pounds); ratio of Prohibited Container Contaminants to total sample size; and, any photographic documentation taken or other physical evidence gathered during the process
- c. Copies of all notices issued to Generators with Prohibited Container Contaminants.
- d. Documentation of the number of loads or Containers where the contents were Disposed due to observation of Prohibited Container Contaminants, including the total weight of material disposed, and proof of consent from the County to dispose of such material if given in a form other than this Agreement.
- e. Any other information reasonably requested by the County or specified in contamination monitoring provisions of this Agreement.

## **4) Customer Service Report**

- a. Number of Customer calls listed separately by complaints and inquiries (where inquiries include requests for service information, Rate information, etc.). For Complaints, list the number of calls separately by category (e.g., missed pickups, scheduled cleanups, billing concerns, damage claims). These complaints and inquiries shall be documented and reported separately from SB 1383 Regulatory non-compliance complaints or other regulatory non-compliance complaints.
- b. Number of missed or incomplete Collections reported in total, and per one thousand (1,000) Service Opportunities in the County, presented in a graph format, which compares total missed Collections in the County during the current report period to total missed Collections in the County in past reporting periods.
- c. Number of new service requests for each Customer type and requested service(s).
- d. Franchisee shall maintain a record of all SB 1383 Regulatory non-compliance complaints and responses pursuant to Section 9.2 of this Agreement and submit the following information:
  - i. Total number of complaints received and total number of complaints investigated
  - ii. Copies of documentation recorded for each complaint received, which shall at a minimum include the following information:
    - a. The complaint as received;
    - b. The name and contact information of the complainant, if the complaint is not submitted anonymously;
    - c. The identity of the alleged violator, if known;
    - d. A description of the alleged violation; including location(s) and all other relevant facts known to the complainant;
    - e. Any relevant photographic or documentary evidence submitted to support the allegations in the complaint; and,
    - f. The identity of any witnesses, if known.



- iii. Copies of all complaint reports submitted to the County, pursuant to Section 9.2 of this Agreement.
- iv. Copies of all investigation reports submitted to the County pursuant to Section 9.2 of this Agreement, which shall include at a minimum:
  - a. The complaint as received;
  - b. The date the Franchisee investigated the complaint;
  - c. Documentation of the findings of the investigation;
  - d. Any photographic or other evidence collected during the investigation; and,
  - e. Franchisee's recommendation to the County on whether or not the entity investigated is in violation of SB 1383 Regulations based on the Franchisee's investigation.

## **5) Education Program Report**

The monthly status of activities identified in the annual public education plan described in Appendix 5 of this Agreement.

## **6) Discarded Materials Evaluation Reports**

In accordance with Appendix 1-E, Franchisee shall provide reports of evaluations of Discarded Materials conducted at Approved Facilities.

## **F. Annual Reports**

In addition to the monthly reporting requirements in this Appendix 6, the Franchisee shall provide an Annual Report, covering the most recently-completed calendar year, in accordance with the format and submittal requirements of this Appendix. The Annual Report shall include the information in the following subsections.

### **1) Collection and Subscription Report**

- a. A summary of all data provided in the Tonnage report and Diversion report sections, including quarterly and annual totals and averages.
- b. The type(s) of Collection service(s) provided, a list of all Hauler Routes serviced, and a record of the addresses served on each Hauler Route.
- c. A summary of Customer subscription data, including the number of accounts; the total number of Generators enrolled with Franchisee for service, listed separately by service level and Container type (Cart, Bin, and Roll-Off service), separately by Single-Family, Multi-Family, and Commercial Customers, and separately for each type of Discarded Material; and the number of Bulky Items Collections performed.
- d. A detailed list of Single-Family, Multi-Family, and Commercial Customer information, including Gray Container Waste, Mixed Waste, Source Separated Recyclable Materials, and SSGCOW Service Levels, Customer type, and Customer service addresses reflecting Customer Service Levels as of December 1 (for the year in which the report is submitted).

### **2) Public Education and Outreach Report**

- a. A copy of all education and outreach materials provided to Generators, or otherwise used for education and outreach efforts in accordance with Section 7.4 of the Agreement, including, but not limited to: flyers, brochures, newsletters, invoice messaging/billing inserts, and website and social media postings.
- b. A record of the date and to whom the information was disseminated, or direct contact made, in the form of a list that includes: the Generator's name or account name, the type of education or outreach received; the distribution date, and the method of distribution.

- c. The number of Organic Waste Generators and Commercial Edible Food Generators that received information and the type of education and outreach used.
- d. For any mass distribution through mailings or bill inserts, the Franchisee shall maintain a record of the date, a copy of the information distributed, and the type and number of accounts that received the information.
- e. A copy of electronic media, including the dates posted of: social media posts, e-mail communications, or other electronic messages.
- f. A summary of the status of the annual education plan of the reporting year, including activities conducted and the quantitative and/or qualitative results of those activities.
- g. The annual public education plan required by Section 7.4 of the Agreement shall be submitted to the County at least sixty (60) days prior to January 1 of each Contract Year.
- h. Franchisee shall maintain a record of all technical assistance efforts conducted pursuant to Section 7.5 of the Agreement, including:
  - i. The name and address of the Customer/Generator receiving technical assistance, and account number, if applicable.
  - ii. The date of any technical assistance conducted and the type of technical assistance, including, but not limited to: waste assessments, compliance assessments, direct outreach, workshops, meetings, events, and follow-up communications.
  - iii. A copy of any written or electronic educational materials distributed during the technical assistance process.

### **3) Compliance Monitoring and Enforcement Report**

- a. A summary of the total number of SB 1383 Regulatory non-compliance complaints that were received and investigated, and the number of Notices of Violation issued based on investigation of those complaints, in accordance with Section 9.2 of the Agreement.
- b. The total number of Hauler Route reviews conducted pursuant to Section 5.6 of the Agreement.
- c. The number of inspections conducted by type for Commercial Edible Food Generators, and Commercial Businesses.
- d. A copy of written and/or electronic records and documentation for all audits, studies, compliance reviews, and all other inspections conducted pursuant to Section 5.6 of the Agreement.
- e. The number of Commercial Businesses that were included in a compliance review performed by the Franchisee per Section 7.7(B), and the number of violations found and corrected through compliance reviews; including a list with each Generator's name or account name, address, and Generator type.
- f. The total number of Notices of Violation issued, categorized by type of Generator.
- g. The number of violations that were resolved, categorized by type of Generator.
- h. Copies of all Notices of Violation and educational materials issued to non-compliant Generators.

### **4) Food Recovery Program Support**

- a. The total number of Generators classified as Tier One and Tier Two Commercial Edible Food Generators located within the Franchise Area.
- b. The number of Food Recovery Services and Food Recovery Organizations located and operating within the County that contract or have written agreements with Commercial Edible Food Generators for Food Recovery.
- c. The number of Generators participating in the Edible Food recovery program, as described in Section 7.6 of the Agreement.

- d. Option: Franchisee participates in Collection of Edible Food: Documentation of the total pounds of Edible Food recovered in the previous calendar year, a list of partner Food Recovery Organizations or Food Recovery Services that recovered the Edible Food, and copies of donation weight logs, Food Recovery contracts and written agreements, and any other documentation of donation or transportation activities between the Franchisee and the Food Recovery Organization or Food Recovery Service.
- e. Option: Franchisee provides financial support directly to the organizations; Documentation of any financial support given by the Franchisee directly to Food Recovery Organizations or Food Recovery Services, including receipts, invoices, or other documentation relevant to the type of support provided.
- f. Option: If Franchisee supports the County's Edible Food Recovery capacity planning or compliance reviews: The results of the quarterly or other frequency examinations of Hauler Routes to identify Commercial Edible Food Generators with food recovery and donation opportunities, pursuant to Section 6.5 of the Agreement. The findings shall include the number of Commercial Edible Food Generator Customers participating in a food recovery program, the number of Commercial Edible Food Generator Customers not participating in a Food Recovery program, and the reasons for participation or non-participation if gathered during the review.

## 5) Vehicle and Equipment Inventory

- 1. A list of all vehicles used in performing services under this Agreement including the license plate number, VIN, make, model, model year, purchase date, engine overhaul/rebuild date (if applicable), and mileage at December 31.
- 2. If applicable, the name, physical location, and contact information of each entity, operation, or facility from whom the RNG was procured.
- 3. If applicable, the total amount of RNG procured by the Franchisee for use in Franchisee vehicles, in diesel gallon equivalents (DGE), including copies of any receipts, invoices, or other similar documentation evidencing procurement. In addition to the amount procured, Franchisee shall include the total amount actually used in Franchisee vehicles in the calendar year, if these values are different.

## 6) Customer Revenue Report

Provide a statement detailing gross receipts from all operations conducted or permitted pursuant to this Agreement in accordance with Article 10 of this Agreement.

## G. Additional Reports

- 1) **Upon Incident Reporting.** County reserves the right to request additional reports or documents in the case of unforeseen events or additional requirements imposed upon the County. The Franchisee shall provide the requested reports, documents, or information within ten (10) Business Days upon receipt of the request or within a timeframe determined by the County Contract Administrator, which shall not to exceed ten (10) days.
- 2) **AB 901 Reporting.** At County's option, County may require that Franchisee provide the County copies of Franchisee's AB 901 reports on a regular basis or within ten (10) Business Days of the request.
- 3) **Facility Capacity Planning Information.** County may require Franchisee to provide County with information of available Organic Waste Processing capacity for any Approved Processing Facilities, where available capacity may include identification of monthly Tons of additional Organic Waste such Approved Facilities have the ability to receive within permitted limits. Franchisee shall respond to County within 60 days of County's request for information regarding available new or expanded capacity, and, at County's option, may be required to submit reports on a more regular basis. If Franchisee uses a Subcontractor to perform some or all of the Facility-related services required by this Agreement, Franchisee shall secure any County-requested Facility capacity planning information from its Subcontractor(s). The annual Facility capacity planning report shall comply with the following:
  - a. Include reports of current throughput and permitted capacity and available capacity for SSBCOW and SSGCOW Processing for any Facility in the County that processes SSBCOW and/or SSGCOW. Existing capacity may include identification of monthly Tons of additional Source Separated Recyclable Materials,

SSGCOW, SSBCOW, and/or Mixed Waste capacity such Facility has the ability to receive within permitted limits.

- b. Include description of potential new or expanded Processing capacity at those Facilities, operations, and activities for Processing of SSBCOW and/or Organic Materials, including information about throughput and permitted capacity necessary for planning purposes.
- c. Be submitted using a form or format approved by the County Contract Administrator.

#### **H. Customized Reports.**

County reserves the right to request Franchisee to prepare and provide customized reports from records Franchisee is required to maintain. The Franchisee shall provide any reports required by this Agreement in a format requested by the County. The Franchisee shall upload data and reports using the required data management tool or software requested by the County.

## **APPENDIX 7**

### **FRANCHISE AREA SPECIFIC PROGRAMS**

#### **A. ANNUAL SHREDDING EVENT**

Franchisee shall conduct a shredding event annually at no additional charge.

#### **B. RESIDENTIAL COMPOST GIVEAWAY**

Franchisee shall conduct a compost give-away event annually at no additional charge. Compost will be pre-bagged in one-yard bags or mutually agreed upon by the County and Franchisee.