

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

COLLECTION SERVICE AGREEMENT

**Executed Between the
City of Benicia
and Allied Waste Systems, Inc.**

**A Delaware Corporation
dba, Allied Waste Services of Contra Costa County,
Inc.**

This ___ day of ___ 2011

1 This page intentionally left blank.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

TABLE OF CONTENTS

Collection Service Agreement

1

2

3 COLLECTION SERVICE AGREEMENT 1

4 ARTICLE 1. DEFINITIONS8

5 ARTICLE 2. TERM OF AGREEMENT 15

6 ARTICLE 3. SERVICES PROVIDED BY THE CONTRACTOR..... 16

7 ARTICLE 4. CHARGES AND RATES23

8 ARTICLE 5. DIVERSION REQUIREMENTS.....27

9 ARTICLE 6. SERVICE UNITS.....28

10 ARTICLE 7. SFD COLLECTION SERVICES28

11 ARTICLE 8. MFD COLLECTION SERVICES.....34

12 ARTICLE 9. COMMERCIAL COLLECTION SERVICES34

13 ARTICLE 10. CITY COLLECTION SERVICES38

14 ARTICLE 11. COLLECTION ROUTES.....40

15 ARTICLE 12. STREET SWEEPING SERVICES41

16 ARTICLE 13. COLLECTION VEHICLES.....45

17 ARTICLE 14. CONTRACTOR’S OFFICE.....47

18 ARTICLE 15. OTHER SERVICES.....48

19 ARTICLE 16. EMERGENCY SERVICE PROVISIONS50

20 ARTICLE 17. RECORD KEEPING & REPORTING REQUIREMENTS50

21 ARTICLE 18. NONDISCRIMINATION53

22 ARTICLE 19. QUALITY OF PERFORMANCE OF CONTRACTOR53

23 ARTICLE 20. BILLING AUDIT AND PERFORMANCE REVIEWS57

24 ARTICLE 21. PERFORMANCE BOND58

25 ARTICLE 22. INSURANCE59

26 ARTICLE 23. INDEMNIFICATION.....62

27 ARTICLE 24. DEFAULT OF AGREEMENT64

28 ARTICLE 25. MODIFICATIONS TO THE AGREEMENT66

29 ARTICLE 26. LEGAL REPRESENTATION.....68

1 ARTICLE 27. FINANCIAL INTEREST69

2 ARTICLE 28. CONTRACTOR'S PERSONNEL 69

3 ARTICLE 29. EXEMPT WASTE69

4 ARTICLE 30. INDEPENDENT CONTRACTOR 70

5 ARTICLE 31. LAWS TO GOVERN.....70

6 ARTICLE 32. CONSENT TO JURISDICTION.....70

7 ARTICLE 33. ASSIGNMENT70

8 ARTICLE 34. COMPLIANCE WITH LAWS71

9 ARTICLE 35. PERMITS AND LICENSES71

10 ARTICLE 36. OWNERSHIP OF WRITTEN MATERIALS72

11 ARTICLE 37. WAIVER72

12 ARTICLE 38. PROHIBITION AGAINST GIFTS72

13 ARTICLE 39. POINT OF CONTACT72

14 ARTICLE 40. CONFLICT OF INTEREST.....72

15 ARTICLE 41. NOTICES72

16 ARTICLE 42. TRANSITION TO NEXT CONTRACTOR73

17 ARTICLE 43. ENTIRE AGREEMENT73

18 ARTICLE 44. SEVERABILITY73

19 ARTICLE 45. RIGHT TO REQUIRE PERFORMANCE74

20 ARTICLE 46. ALL PRIOR AGREEMENTS SUPERSEDED74

21 ARTICLE 47. HEADINGS74

22 ARTICLE 48. EXHIBITS74

23 ARTICLE 49. REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR74

24 ARTICLE 50. EFFECTIVE DATE76

25

26 EXHIBIT 1 Maximum Rates

27 EXHIBIT 2 City Service Units

28 EXHIBIT 3 Approved Facilities

29 EXHIBIT 4 Approved Subcontractors

30 EXHIBIT 5 City-Sponsored Events

31 EXHIBIT 6 City Street Sweeping Schedule and Terms

- 1 EXHIBIT 7 Household Hazardous Waste
- 2 EXHIBIT 8 Exempt Green Waste Collection Locations
- 3 EXHIBIT 9 Additional Programs and Services Provided by CONTRACTOR
- 4 EXHIBIT 10 CNG Powered Vehicle Replacement Schedule
- 5 EXHIBIT 11 Container Specifications
- 6 EXHIBIT 12 School Recycling Program
- 7 EXHIBIT 13 Community Outreach Program
- 8 EXHIBIT 14 List of Key Agreement Dates
- 9
- 10 ATTACHMENT 1 Street Sweeping Map
- 11

1 This page intentionally left blank.

2

CITY OF BENICIA

This Agreement made and entered into this ___ day of ____, 2011 by and between the City of Benicia, State of California, hereinafter referred to as "CITY" and Allied Waste Systems, Inc. a Delaware Corporation, dba Allied Waste Services of Contra Costa County hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("Act") and subsequent additions and amendments (codified at California Public Resources Code Section 40000 et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for Garbage Collection within their jurisdiction; and

WHEREAS, the State of California has found and declared that the amount of Garbage generated in California, coupled with diminishing landfill space and potential adverse environmental impacts from landfilling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of the Act, directed the responsible State agency, and all local agencies, to promote disposal site diversion and to maximize the use of feasible Garbage reduction, re-use, recycling, and Composting options in order to reduce the amount of Garbage that must be disposed of in disposal sites; and

WHEREAS, pursuant to California Public Resources Code Section 40059(a) as may be amended from time to time, the CITY has determined that the public health, safety, and well-being require that an exclusive right be granted to a qualified contractor to provide for the Collection of Garbage, Recyclable Materials, and Green Waste/Organic Waste Materials, except for Collection of materials excluded in the CITY'S Municipal Code, and other services related to meeting the Act's 50% Diversion goal and other requirements of the Act; and

WHEREAS, the CITY further declares that the CONTRACTOR, and not the CITY, has established maximum rates that CONTRACTOR may charge all Service Recipients for the Collection, transportation, processing, recycling, Composting, and/or disposal of Garbage, Recyclable Materials, and Green Waste/Organic Waste Materials; and

WHEREAS, the City Council has determined through a negotiation process for Collection Services that CONTRACTOR, by demonstrated experience, reputation and capacity, is qualified to provide for the Collection of Garbage, Recyclable Materials, and Green Waste/Organic Waste Materials within the corporate limits of the CITY, the transportation of such material to appropriate places for processing, recycling, Composting and/or disposal; and City Council desires that CONTRACTOR be engaged to perform such services on the basis set forth in this Agreement; and

WHEREAS, the CONTRACTOR, through its proposal to the CITY, has proposed and represented that it has the ability and capacity to provide for the Collection of Garbage, Recyclable Materials, and Green Waste/Organic Waste Materials within the corporate limits of the CITY; the transportation of such material to appropriate places for processing, recycling, Composting and/or disposal; and the processing of materials; and

WHEREAS, this Agreement has been developed by and is satisfactory to the CITY and the CONTRACTOR.

1 Now, therefore, in consideration of the mutual covenants, conditions and consideration
2 contained herein, the CITY and CONTRACTOR hereby agree as hereinafter set forth:

3 ARTICLE 1. Definitions

4 For the purpose of this Collection Service Agreement, the definitions of words or phrases
5 contained in CITY Municipal Code section 8.24.010 shall control (including the definitions of
6 Green Waste/Green Waste/Organic Waste, Recyclables, Refinery Industrial/Special Waste,
7 Sludge and Garbage over any inconsistent definitions in this Agreement. When not inconsistent
8 with the context, words used in the present tense include the future, words in the plural include
9 the singular, and words in the singular include the plural. Use of the masculine gender shall
10 include the feminine gender.

11 1.01 AB 939. The California Integrated Waste Management Act (California Public
12 Resources Code Sections 40000 et al.), as amended from time to time.

13 1.02 Agreement. The written document and all amendments thereto, between the
14 CITY and the CONTRACTOR, governing the provision of Collection Services as provided
15 herein.

16 1.03 Agreement Year. Each twelve (12) month period from July 1st to June 30th.

17 1.04 Alternative Daily Cover (ADC). Disposal Facility cover material, other than SFD,
18 MFD, and Commercial Food Waste and at least six (6) inches of earthen material, placed on the
19 surface of the active face of the refuse fill area at the end of each operating day to control
20 vectors, fires, odor, blowing litter and scavenging, as defined in Section 20164 of the California
21 Code of Regulations.

22 1.05 Biohazardous or Biomedical Waste. Any waste which may cause disease or
23 reasonably be suspected of harboring pathogenic organisms; included are waste resulting from
24 the operation of medical clinics, hospitals, and other facilities processing wastes which may
25 consist of, but are not limited to, human and animal parts, contaminated bandages, pathological
26 specimens, Sharps, contaminated clothing and surgical gloves.

27 1.06 Bulky Waste. Those materials including furniture, carpets, mattresses, White
28 Goods, and Large Green Waste which are attributed to the normal activities of a SFD Service
29 Unit, MFD Service Unit, or City Service Unit. Bulky Waste must be generated by and at the
30 Service Unit wherein the Bulky Waste are collected. Bulky Waste does not include items herein
31 defined as Exempt Waste.

32 1.07 Change in Law. Means any of the following events or conditions which has a
33 material and adverse effect on the performance by the parties of their respective obligations
34 under this Agreement (except for payment obligations): (a) The enactment, adoption,
35 promulgation, issuance, modification, or written change in administrative or judicial interpretation
36 on or after the effective date of any applicable law; or (b) The order or judgment of any
37 governmental body, on or after the effective date, to the extent such order or judgment is not the
38 result of willful or negligent action, error or omission or lack of reasonable diligence of the CITY
39 or of the CONTRACTOR, whichever is asserting the occurrence of a change in law; provided,
40 however, that the contesting in good faith or the failure in good faith to contest any such order or
41 judgment shall not constitute or be construed as such a willful or negligent action, error or
42 omission or lack of reasonable diligence.

43 1.08 CITY. The City of Benicia, California.

1 1.09 City Code Enforcement Clean-up Service. The Collection of Garbage, Green
2 Waste/Organic Waste, Recyclable Materials, Bulky Waste and E-Waste by the CONTRACTOR
3 resulting from written or verbal requests from the CITY for temporary clean-up of Garbage,
4 Green Waste/Organic Waste, Recyclable Materials, Bulky Waste, or E-Waste. Such service
5 shall include the provision of Debris Box containers by the CONTRACTOR.

6 1.10 City Collection Service. City Code Enforcement Clean-up Service, City Garbage
7 Collection Service, City Recycling Service, City Green Waste/Organic Waste Collection Service,
8 City Debris Box Service, and Special Event Collection Service.

9 1.11 City Debris Box Service. The provision of Debris Box containers at the City
10 Service Units for the accumulation of Garbage, Green Waste/Organic Waste and Recyclable
11 Materials and the Collection, Processing and Disposal of those materials and such other Bulky
12 Waste from the City Service Units as may be directed by the CITY.

13 1.12 City Garbage Collection Service. The Collection of Garbage by the
14 CONTRACTOR, from City Service Units in the Service Area, and the delivery of that Garbage to
15 a Disposal Facility.

16 1.13 City Green Waste/Organic Waste Collection Service. The Collection of Green
17 Waste/Organic Waste, by the CONTRACTOR, from City Service Units in the Service Area and
18 the delivery of that Green Waste/Organic Waste to the Green Waste/Organic Waste Processing
19 Facility.

20 1.14 City Recycling Service. The Collection of Recyclable Materials, by the
21 CONTRACTOR, from City Service Units in the Service Area and the delivery of those
22 Recyclable Materials to a Materials Recovery Facility.

23 1.15 City Representative. That person, or their designee, designated by the CITY to
24 administer and monitor the provisions of this Agreement.

25 1.16 City Service Unit. Those CITY properties or locations as set forth in **Exhibit 2**,
26 "City Service Units", which is attached to and included in this Agreement.

27 1.17 City Street. Public streets within the CITY, as designated by the City
28 Representative. City Streets include large arterials, major collectors, and all public streets
29 throughout the CITY.

30 1.18 Collection. The process whereby Garbage, Green Waste/Organic Waste and
31 Recyclable Materials are removed and transported to a Disposal Facility, Green Waste/Organic
32 Waste Processing Facility or Materials Recovery Facility, as appropriate.

33 1.19 Collection Services. Single Family Dwelling (SFD) Collection Service, Multi-
34 Family Dwelling (MFD) Collection Service, City Collection Service, Commercial Collection
35 Service, and Street Sweeping Service.

36 1.20 Commercial Collection Service. Commercial Garbage Collection Service,
37 Commercial Recycling Service, Commercial Green Waste/Organic Waste Collection Service,
38 and Commercial Debris Box Service.

39 1.21 Commercial Debris Box Service. The Collection of Garbage, Recyclable
40 Materials, Green Waste/Organic Waste, or Construction and Demolition Debris by the
41 CONTRACTOR from Commercial Service Units in the Service Area, and the delivery of
42 collected Debris Box containers to an appropriate processing facility or Disposal Facility.

1 1.22 Commercial Food Waste. Food scraps and trimmings from food preparation,
2 including but not limited to: meat, fish and dairy waste, fruit and vegetable waste, grain waste,
3 and acceptable food packaging items such as pizza boxes, paper towels, waxed cardboard and
4 food contaminated paper products.

5 1.23 Commercial Garbage Collection Service. The Collection of Garbage by the
6 CONTRACTOR, from Commercial Service Units in the Service Area, and the delivery of that
7 Garbage to the Disposal Facility.

8 1.24 Commercial Green Waste/Organic Waste Collection Service. The Collection of
9 Green Waste/Organic Waste by the CONTRACTOR from Commercial Service Units in the
10 Service Area, and the delivery of that Green Waste/Organic Waste to a Green Waste/Organic
11 Waste Processing Facility.

12 1.25 Commercial Recycling Service. The Collection of Recyclable Materials, by the
13 CONTRACTOR, from Commercial Service Units in the Service Area, the delivery of those
14 Recyclable Materials to a Materials Recovery Facility and the processing and marketing of
15 those Recyclable Materials.

16 1.26 Commercial Service Unit. All retail, professional, office, wholesale, refineries,
17 and industrial facilities and enterprises offering goods or services to the public and Mixed Use
18 Service Units that utilize a Garbage Cart, Bin, or Debris Box for the accumulation and set-out of
19 Garbage.

20 1.27 Compactor. Any Debris Box container or bin, which has a compaction
21 mechanism, whether stationary or mobile.

22 1.28 Composting. The controlled biological decomposition of Green Waste/Organic
23 Waste into a specific mixture of decayed Green Waste/Organic matter used for fertilizing or soil
24 conditioning.

25 1.29 Construction and Demolition Debris. Commonly used or discarded materials
26 removed from construction, remodeling, repair, demolition, or renovation operations on any
27 pavement, house, commercial building, or other structure, or from landscaping. Such materials
28 include, but are not limited to, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard,
29 aluminum, glass, asphalt material, plastics, roofing material, cardboard, carpeting, cinder
30 blocks, concrete, copper, electrical wire, fiberglass, Formica, granite, iron, lad, linoleum, marble,
31 plaster plant debris, pressboard, porcelain, steel, stucco, tile, vinyl, wood, masonry, rocks, trees,
32 remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal,
33 building materials, packaging and rubble resulting from construction, remodeling, renovation,
34 repair and demolition operations on pavements, houses, commercial buildings and other
35 structures. Construction and Demolition Debris does not include Exempt Waste.

36 1.30 Consumer Price Index (CPI). The index published by the U.S. Department of
37 Labor, Bureau of Labor Statistics, Series Id: CCUA422SAO, Not Seasonally Adjusted, All
38 Items, All Urban Consumers (CPI-U) for San Francisco-Oakland-San Jose, California.

39 1.31 CONTRACTOR. Allied Waste Services, Inc. a Delaware Corporation, dba Allied
40 Waste Services of Contra Costa County, Inc.

41 1.32 County. Solano County, California.

42 1.33 Debris Box Collection Service. Collection utilizing 8 - 40 cubic yard containers
43 provided to Service Units for the Collection of Garbage, including Construction and Demolition
44 Debris materials, for the delivery of that material to an appropriate facility.

1 1.34 Debris Box. A metal container that is normally loaded onto a motor vehicle and
2 transported to an appropriate facility.

3 1.35 Disposal Facility. The Keller Canyon Landfill and Contra Costa Transfer and
4 Recovery Station located in Contra Costa, County California, or such place or places specifically
5 designated by the CONTRACTOR for the disposal, or processing as appropriate, of Garbage
6 and other materials as appropriate.

7 1.36 Dwelling Unit. Any individual living unit in a single family dwelling (SFD) or multi-
8 family dwelling (MFD) structure or building intended for, or capable of being utilized for,
9 residential living other than a hotel or motel.

10 1.37 E-Waste. Discarded electronics equipment such as PDAs, cell phones,
11 computers, monitors, televisions, and other items containing cathode ray tubes (CRTs), LCD or
12 plasma screens and computer monitors.

13 1.38 Exempt Waste. Biohazardous or Biomedical Waste, Hazardous Waste,
14 automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines,
15 lead-acid batteries, and those wastes under the control of the Nuclear Regulatory Commission.

16 1.39 Garbage. All non-recyclable packaging, and putrescible waste attributed to
17 normal activities of a Service Unit. Garbage must be generated by and at the Service Unit
18 wherein the Garbage is collected. Garbage does not include those items defined herein as
19 Recyclable Materials, Green Waste/Organic Waste, Bulky Waste, E-Waste, U-Waste, or
20 Exempt Waste.

21 1.40 Garbage Bin. A metal or plastic container, with a capacity of one (1) cubic yard
22 up to, and including, eight (8) cubic yards, designed or intended to be mechanically dumped into
23 a loader packer type garbage truck that is approved for such purpose by the CITY. Garbage
24 Bins may also include Compactors that are owned by the MFD or Commercial Service Unit
25 wherein the MFD or Commercial Collection Service occurs.

26 1.41 Garbage Cart. A heavy-duty plastic receptacle with wheels and a rated capacity
27 of at least twenty (20) gallons and not more than ninety-six (96) gallons, having a hinged tight-
28 fitting lid and wheels, that is approved by the City Representative for use by Service Recipients
29 for Collection Services under this Agreement.

30 1.42 Green Waste. Any vegetative matter resulting from normal yard and landscaping
31 maintenance that is not more than three (3) feet in its longest dimension or six (6) inches in
32 diameter and fits in the Green Waste/Organic Waste Cart or Overage Bag utilized by the
33 Service Recipient. Green Waste includes plant debris, such as, ivy, grass clippings, leaves,
34 pruning, weeds, branches, brush, holiday trees, and other forms of vegetative waste and must
35 be generated by and at the Service Unit wherein the Green Waste is collected. Green Waste
36 does not include items herein defined as Exempt Waste.

37 1.43 Green Waste/Organic Waste. Includes Green Waste, and SFD, MFD, and
38 Commercial Food Waste.

39 1.44 Green Waste/Organic Waste Bin. A metal or plastic container, with a capacity of
40 one (1) cubic yard up to and including eight (8) cubic yards, designed or intended to be
41 mechanically dumped into a loader packer type truck that is approved for such purpose by the
42 CITY.

1 1.45 Green Waste/Organic Waste Cart. A heavy plastic receptacle with wheels and a
2 rated capacity not exceeding ninety-six (96) gallons, having a hinged tight-fitting lid, and wheels,
3 that is approved for such purpose by the CITY.

4 1.46 Green Waste/Organic Waste Processing Facility. Any facility selected by the
5 CONTRACTOR that is designed, operated and legally permitted for the purpose of receiving
6 and processing Green Waste/Organic Waste and Large Green Waste.

7 1.47 Gross Receipts. All monetary amounts collected by the CONTRACTOR for the
8 provision of Collection Services pursuant to this Agreement calculated in accordance with
9 Generally Accepted Accounting Procedures (GAAP). The term Gross Receipts, for purposes of
10 this Agreement, does not include any revenues generated from the sale of Recyclable Material,
11 or other receipts from state and local government accounts (e.g. grants, cash awards and
12 rebates) resulting from the performance of this Agreement.

13 1.48 Hazardous Waste. Any material, which is defined as a hazardous waste under
14 California or United States law, or any regulations promulgated pursuant to such law, as such
15 law or regulations may be amended from time to time.

16 1.49 Household Hazardous Waste (HHW). HHW includes dry cell household batteries,
17 cell phones and PDAs; used motor oil; used oil filters when contained in a sealed plastic bag;
18 cooking oil; compact fluorescent light bulbs contained in a sealed plastic bag; E-Waste; cleaning
19 products, pesticides, herbicides, insecticides, painting supplies, automotive products, solvents,
20 stripes, and adhesives, auto batteries; and Universal Waste generated at a SFD or MFD
21 Service Unit.

22 1.50 Industrial Waste. Non-hazardous Garbage, Green Waste/Organic Waste, and
23 Recyclable Materials generating from mechanized manufacturing facilities, factories, and
24 publicly operated treatment works located within the Service Area.

25 1.51 Lineal Mile. The distance of one mile of a street as measured by CITY along the
26 center line of the street. Distances along median islands are not considered Lineal Miles.

27 1.52 Large Green Waste. Oversized Green Waste such as tree trunks and branches
28 with a diameter of not less than six (6) inches and not more than two (2) feet and a length of not
29 more than three (3) feet in its longest dimension, which are attributed to the normal activities of
30 a SFD, MFD, or City Service Unit. Large Green Waste must be generated by and at the Service
31 Unit wherein the Large Green Waste is collected.

32 1.53 Materials Recovery Facility (MRF). Any facility, selected by the CONTRACTOR
33 as listed in **Exhibit 3**, designed, operated, and legally permitted for the purpose of receiving,
34 sorting, processing, storing, or preparing Recyclable Materials for sale.

35 1.54 MFD Collection Service. MFD Garbage Collection Service, MFD Recycling
36 Service, MFD Green Waste/Organic Collection Service, MFD Debris Box Service, and MFD
37 Large Item Collection Service.

38 1.55 MFD Debris Box Service. The Collection of Garbage, Recyclable Materials,
39 Green Waste/Organic Waste, or Construction and Demolition Debris by the CONTRACTOR
40 from MFD Service Units in the Service Area, and the delivery of collected Debris Box containers
41 to an appropriate processing facility or Disposal Facility.

42 1.56 MFD Food Waste. Food scraps and trimmings from food preparation, including
43 but not limited to: fruit and vegetable waste, grain waste, Stable Matter, and acceptable food

1 packaging items such as pizza boxes, paper towels, waxed cardboard and food contaminated
2 paper products.

3 1.57 MFD Garbage Collection Service. The Collection of Garbage, by the
4 CONTRACTOR, from MFD Service Units in the Service Area and the delivery of that Garbage
5 to the Disposal Facility.

6 1.58 MFD Large Item Collection Service. The periodic on-call Collection of Bulky
7 Waste, by the CONTRACTOR, from MFD Service Units in the Service Area and the delivery of
8 those Bulky Waste to a Disposal Facility, Materials Recovery Facility, Green Waste/Organic
9 Waste Processing Facility or such other facility as may be appropriate under the terms of this
10 Agreement.

11 1.59 MFD Green Waste/Organic Waste Collection Service. The Collection of Green
12 Waste/Organic Waste by the CONTRACTOR from MFD Service Units in the Service Area, and
13 the delivery of that Green Waste/Organic Waste to a Green Waste/Organic Waste Processing
14 Facility.

15 1.60 MFD Recycling Service. The Collection of Recyclable Materials, by the
16 CONTRACTOR, from MFD Service Units in the Service Area, the delivery of those Recyclable
17 Materials to a Materials Recovery Facility and the processing and marketing of those
18 Recyclable Materials.

19 1.61 MFD Service Unit. Any combination of Dwelling Units in the Service Area utilizing
20 a common Garbage Cart or Bin for the accumulation and set-out of Garbage.

21 1.62 Mixed Use Service Units. A building or structure, which contains both a retail,
22 professional, office, wholesale or industrial facilities or enterprises offering goods or services to
23 the public and Dwelling Unit(s).

24 1.63 Mixed Waste. Recyclable Materials, Garbage, Green Waste/Organic Waste,
25 Industrial Waste, Refinery Waste and other Construction and Demolition Debris commingled in
26 any combination thereof in a cart, bin, debris box or other container set out for collection at any
27 type of Service Unit defined in this agreement.

28 1.64 Non-Collection Notice. A form developed and used by the CONTRACTOR, as
29 approved by the CITY, to notify Service Recipients of the reason for non-collection of materials
30 set out by the Service Recipient for Collection by CONTRACTOR pursuant to this Agreement.

31 1.65 Recyclable Materials. Those materials, which are capable of being recycled and
32 that would otherwise be processed or disposed of as Garbage. Recyclable Materials include
33 those materials defined by the CITY, including newsprint (including inserts); mixed paper
34 (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, brown bags and
35 paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass
36 containers; aluminum beverage containers; small scrap and cast aluminum (not exceeding forty
37 (40) pounds in weight nor two (2) feet in any dimension for any single item); steel including "tin"
38 cans, aerosol cans (empty, non-toxic products) and small scrap (not exceeding forty (40)
39 pounds in weight nor two (2) feet in any dimension for any single item); bimetal containers; #1-7
40 plastics regardless of form or mold, including but not limited to plastic containers, bottles, wide
41 mouth tubs, aluminum foil and pans; dry cell household batteries and cell phones when
42 contained in a sealed plastic bag; and those materials added by the CONTRACTOR from time
43 to time. Plastic bags, film plastic, rigid polystyrene, loose polystyrene used in packaging if they
44 are contained in a closed bag, and aseptic containers will be included as markets and
45 processing is developed to support diversion of these materials.

1 1.66 Recyclables Tote-Bag. A collapsible bag distributed to all MFD Service
2 Recipients for their use in transporting Recyclable Materials to the Collection point that is
3 approved for such purpose by the CITY and is appropriately labeled as a Recyclables Tote-Bag.

4 1.67 Recycling Bin. A plastic or metal container, with a capacity of one (1) cubic yard
5 up to and including eight (8) cubic yards, designed or intended to be mechanically dumped into
6 a loader packer type recycling truck that is approved for such purpose by the CITY and is
7 appropriately labeled as a Recycling Bin.

8 1.68 Recycling Cart. A heavy plastic receptacle with wheels and a rated capacity of at
9 least thirty-two (32) gallons and not more than ninety-six (96) gallons, having a hinged tight-
10 fitting lid, and wheels, that is approved for such purpose by the CITY and is appropriately
11 labeled as a Recycling Cart.

12 1.69 Refinery Waste. Non-hazardous Garbage, Green Waste/Organic Waste, and
13 Recyclables Materials, generated from a petroleum refinery located within the Service Area.

14 1.70 Service Area. That area within the corporate limits of the City of Benicia,
15 California.

16 1.71 Service Recipient. An individual or company receiving Collection Service.

17 1.72 Service Unit. SFD Service Units, MFD Service Units, City Service Units, and
18 Commercial Service Units.

19 1.73 SFD Collection Service. SFD Garbage Collection Service, SFD Recycling
20 Service, SFD Green Waste/Organic Waste Collection Service, SFD Debris Box Service, and
21 SFD Large Item Collection Service.

22 1.74 SFD Debris Box Service. The Collection of Garbage, Recyclable Materials,
23 Green Waste/Organic Waste, or Construction and Demolition Debris by the CONTRACTOR
24 from SFD Service Units in the Service Area, and the delivery of collected Debris Box containers
25 to an appropriate processing facility or Disposal Facility.

26 1.75 SFD Food Waste. Food scraps and trimmings from food preparation, including
27 but not limited to: fruit and vegetable waste, grain waste, Stable Matter, and acceptable food
28 packaging items such as pizza boxes, paper towels, waxed cardboard and food contaminated
29 paper products depending upon the processing plant used by CONTRACTOR.

30 1.76 SFD Garbage Collection Service. The Collection of Garbage, by the
31 CONTRACTOR, from SFD Service Units in the Service Area and the delivery of that Garbage to
32 a Disposal Facility.

33 1.77 SFD Large Item Collection Service. The periodic on-call Collection of Bulky
34 Waste, by the CONTRACTOR, from SFD Service Units in the Service Area and the delivery of
35 those Bulky Waste to a Disposal Facility, Materials Recovery Facility, Green Waste/Organic
36 Waste Processing Facility or such other facility as may be appropriate under the terms of this
37 Agreement. SFD Large Item Collection Service does not include the Collection of Bulky Waste
38 through the use of Debris Box containers.

39 1.78 SFD Green Waste/Organic Waste Collection Service. The Collection of Green
40 Waste/Organic Waste by the CONTRACTOR from SFD Service Units in the Service Area, the
41 delivery of that Green Waste/Organic Waste to a Green Waste/Organic Waste Processing
42 Facility.

1 requirements in this Agreement, the CITY shall be obligated to offer the CONTRACTOR in
2 writing a three (3) year extension of this Agreement. CONTRACTOR shall provide written notice
3 to the CITY as to whether CONTRACTOR accepts or rejects the CITY's offer within twenty (20)
4 Work Days of the date of the offer. If CONTRACTOR fails to provide such notice to the CITY
5 within twenty (20) Work Days, the CITY's offer shall be deemed withdrawn and the CITY shall
6 have no obligation to extend the term of this Agreement beyond June 30, 2021. If the term of
7 this Agreement is extended, the compensation provisions of Article 4 shall not be subject to
8 negotiation. However, the compensation payable to CONTRACTOR shall be adjusted annually
9 throughout the extended term as provided in Article 4.

10 2.01.2 Second Extension. On or about July 1, 2022, provided the CITY
11 determines that the CONTRACTOR has not failed to meet and maintain the minimum diversion
12 requirements set forth in Article 5 for two (2) consecutive years and has met the service
13 requirements in this Agreement, the CITY shall be obligated to offer the CONTRACTOR in
14 writing a three (3) year extension of this Agreement. CONTRACTOR shall provide written notice
15 to the CITY as to whether CONTRACTOR accepts or rejects the CITY's offer within twenty (20)
16 Work Days of the date of the offer. If CONTRACTOR fails to provide such notice to the CITY
17 within twenty (20) Work Days, the CITY's offer shall be deemed withdrawn and the CITY shall
18 have no obligation to extend the term of this Agreement beyond June 30, 2024. If the term of
19 this Agreement is extended, the compensation provisions of Article 4 shall not be subject to
20 negotiation. However, the compensation payable to CONTRACTOR shall be adjusted annually
21 throughout the extended term as provided in Article 4.

22 ARTICLE 3. Services Provided by the CONTRACTOR

23 3.01 Grant of Exclusive Agreement. Subject only to the express exceptions in Section
24 3.02 of this Agreement, and for the Term of this Agreement as it currently exists and may be
25 extended, the CONTRACTOR is hereby granted an exclusive franchise and contract pursuant
26 to section 8.24.040 of the City of Benicia Municipal Code for the collection, transportation,
27 processing, recycling and disposal of all Garbage generated in the City of Benicia, subject only
28 to the exceptions contained in Benicia Municipal Code section 8.24.050. Without limitation of
29 the foregoing, CONTRACTOR'S exclusive franchise and contract covers and includes all
30 Garbage as defined in section 8.24.010 (9) of the Municipal Code, and includes without
31 limitation all Recyclables, Green Waste/Organic Waste, Industrial Waste, Refinery Waste,
32 Mixed Waste and Construction and Demolition Debris as defined in Municipal Code section
33 8.24.010 (3) and (7).

34 3.02 Limitations to Scope of Exclusive Agreement.

35 3.02.1 Any resident may dispose of Garbage produced on his/her own premises
36 only if he/she complies with the following:

37 3.02.1.1 Files an affidavit with the City Manager or his/her
38 representative setting forth an alternate means of disposal.

39 3.02.1.2 The City Manager approves the alternative method of
40 disposal.

41 3.02.1.3 The City Manager may impose any terms and conditions to
42 the alternate method of disposal, which are necessary to protect public health, prevent public
43 and private nuisances, and prevent litter and to keep public and private property clean and
44 sanitary and may revoke it at any time.

1 3.02.2 Notwithstanding the provisions of Section 3.01, a petroleum refinery or
2 industrial facility may transport for disposal or contract for the transport and disposal its own
3 Hazardous Waste using its own equipment.

4 3.02.3 Notwithstanding the provisions of Section 3.01, the CONTRACTOR shall
5 not have the exclusive right to collect, haul, transport or dispose of the following types of Solid
6 Waste or Green Waste:

7 3.02.3.1 Green Waste when removed and transported by the
8 gardening service performing the gardening;

9 3.02.3.2 Garbage generated by construction and demolition which
10 is accumulated as the result of new construction, structure demolition or modification, when:

11 3.02.3.2.1. The building or demolition/modification contractor
12 owns and operates the hauling equipment necessary to remove and haul the demolished
13 construction and modification rubbish generated; or

14 3.02.3.2.2. The construction and demolition debris generated is
15 hauled by a vehicle or trailer commonly known as an "end dump," which vehicle or trailer must
16 have a nondetachable debris container with an open top and cannot be capable of loading itself
17 and the driver remains with the vehicle while it is being loaded; provided further, that the
18 equivalent services or equipment are not available from the CONTRACTOR; or

19 3.02.3.2.3. Green Waste which must be removed only as
20 incidental to the infrequent clearing of a premises and when a vehicle or container of no greater
21 than two cubic yards capacity is used to remove the Garbage or Green Waste.

22 3.02.3.3 A building or demolition/modification contractor may not
23 subcontract for construction and demolition debris hauling services except as is set forth in
24 subsection 3.02.3.2.

25 3.03 If CONTRACTOR can produce evidence that other persons are servicing Collection
26 containers or are Collecting Garbage, Recyclable Materials, Bulky Waste, Mixed Waste,
27 Construction and Demolition Debris and/or Green Waste/Organic Waste in a manner that is not
28 consistent with the CITY'S Municipal Code or this Agreement, it shall report the location, the
29 name and phone number of the person or company to the CITY along with CONTRACTOR'S
30 evidence of the violation of the exclusiveness of this Agreement, and the CONTRACTOR shall
31 assist the CITY to enforce the City Municipal Code and this Agreement. In addition,
32 CONTRACTOR shall have the right to independently initiate legal proceedings, including
33 requesting injunctive relief and damages from the Superior Court, to enforce CONTRACTOR'S
34 exclusive rights and privileges under this Agreement.

35 3.03.1 The scope of this Agreement shall be interpreted to be consistent with
36 applicable law, now and during the term of the Agreement. If future judicial interpretations of
37 current law or new laws, regulations, or judicial interpretations limit the ability of the CITY to
38 lawfully provide for the scope of services as specifically set forth herein, CONTRACTOR agrees
39 that the scope of the Agreement will be limited to those services and materials which may be
40 lawfully provided and that the CITY shall not be responsible for any lost profits or losses claimed
41 by CONTRACTOR to arise out of limitations of the scope of the Agreement set forth herein. In
42 such an event, it shall be the responsibility of CONTRACTOR to minimize the financial impact of
43 such future judicial interpretations or new laws.

1 3.04 Service Standards. CONTRACTOR shall perform all Collection Services under this
2 Agreement in a thorough and professional manner. Collection Services described in this
3 Agreement shall be performed regardless of weather conditions or difficulty of Collection.

4 3.05 Hours and Days of Collection.

5 3.05.1 SFD and MFD Collection Services shall be provided, commencing no
6 earlier than 6:00 a.m. and terminating no later than 7:00 p.m., in accordance with the Municipal
7 Code, Monday through Friday with no service on Saturday (except for holiday service as set
8 forth in Section 3.09 of this Agreement in which case normal Collection hours may be utilized) or
9 Sunday. The hours, days, or both of Collection may be extended due to extraordinary
10 circumstances or conditions with the prior written consent of the City Representative.

11 3.05.2 Commercial and City Collection Service shall be provided, commencing
12 no earlier than 4:00 a.m., and terminating no later than 7:00 p.m., Monday through Friday, and
13 on Saturdays commencing no earlier than 4:00 a.m., and terminating no later than 4:00 p.m.
14 The hours, days, or both of Collection may be extended due to extraordinary circumstances or
15 conditions with the prior written consent of the City Representative.

16 3.05.3 The CITY may direct CONTRACTOR to reduce the Collection hours in
17 areas around schools and in high traffic areas during peak commute hours. When the CITY is
18 conducting road overlay or slurry projects, the CITY reserves the right to temporarily redirect or
19 restrict CONTRACTOR from Collection in the affected areas or temporarily change the
20 Collection hours if needed. The hours of Collection may be extended due to extraordinary
21 circumstances or conditions with the prior written consent of the City Representative.

22 3.06 Manner of Collection. The CONTRACTOR shall provide Collection Service with as
23 little disturbance as possible and shall leave any cart or bin in an upright position at the same
24 point it was collected without obstructing alleys, roadways, driveways, sidewalks or mail boxes.

25 3.07 Containers.

26 3.07.1 Carts and bins are to be hot-stamped, embossed, laminated, or painted
27 with a unique identification number, and in-molded with the type of materials to be collected
28 (i.e., Garbage, Green Waste/Organic Waste, Recyclable Materials) and instructions for proper
29 usage. The in-molding shall be on the lids with graphics approved by the CITY. CONTRACTOR
30 replacement and repair requirements as specified in Sections 3.07.3 and 3.07.4 shall also apply
31 to carts that have in-molded graphics on the lids. CONTRACTOR shall also provide new
32 Recyclables Tote-Bags to be made available to individual MFD Service Recipients at no charge
33 to the MFD Service Recipient. The type, size, and graphics of the Recyclables Tote-Bags shall
34 be approved by the City. Debris Box containers may be used, provided they are newly painted,
35 properly marketed and in good working order. The CITY retains the right to inspect any such
36 used Debris Box container and direct the CONTRACTOR to replace such a used Debris Box
37 container if it is deemed to be not acceptable.

38 3.07.2 Purchase and Distribution of Carts, Bins, and Recyclables Tote-Bags.
39 The CONTRACTOR shall be responsible for the purchase and distribution of fully assembled
40 and functional carts, bins, and Recyclables Tote-Bags to Service Units in the Service Area.
41 CONTRACTOR shall also distribute carts, bins, and Recyclables Tote-Bags to new Service
42 Units that are added to CONTRACTOR'S Service Area during the term of this Agreement. The
43 distribution shall be completed within three (3) Work Days of receipt of notification from the
44 CITY or the Service Unit.

1 3.07.3 Replacement of Carts and Bins. CONTRACTOR'S employees shall take
2 care to prevent damage to carts or bins by unnecessary rough treatment. However, any cart or
3 bin damaged by the CONTRACTOR shall be replaced by the CONTRACTOR, at the
4 CONTRACTOR'S expense, within three (3) Work Days at no cost or inconvenience to the
5 Service Recipient.

6 3.07.3.1 Upon notification to the CONTRACTOR by the CITY or a
7 Service Recipient that the Service Recipient's cart(s), bin(s), or Recyclables Tote-Bag(s) have
8 been stolen or damaged beyond repair through no fault of the CONTRACTOR, the
9 CONTRACTOR shall deliver a replacement cart(s), bin(s), or Recyclables Tote-Bag(s) to such
10 Service Recipient within three (3) Work Days. The CONTRACTOR shall maintain records
11 documenting all cart and bin replacements occurring on a monthly basis.

12 3.07.3.2 Where such cart is lost, stolen or damaged beyond repair
13 through no fault of the CONTRACTOR, each SFD Service Unit shall be entitled to the
14 replacement of one (1) lost, destroyed, or stolen Garbage Cart, one (1) lost, destroyed, or stolen
15 Recycling Cart, one (1) lost, destroyed, or stolen Green Waste/Organic Waste Cart during the
16 life of this Agreement at no cost to the Service Recipient.

17 3.07.3.3 Where such cart, bin, or Recyclables Tote-Bag is lost,
18 stolen or damaged beyond repair through no fault of the CONTRACTOR, each MFD Service
19 Unit shall be entitled to the replacement of one (1) lost, destroyed, or stolen Garbage Cart or
20 Bin, one (1) lost, destroyed, or stolen Recycling Cart or Bin, one (1) lost, destroyed, or stolen
21 Green Waste/Organic Waste Cart or Bin, and three (3) lost, destroyed, or stolen Recyclables
22 Tote-Bags during the life of this Agreement at no cost to the Service Recipient.

23 3.07.3.4 Where such cart or bin is lost, stolen or damaged beyond
24 repair through no fault of the CONTRACTOR, each Commercial and City Service Unit shall be
25 entitled to the replacement of one (1) lost, destroyed, or stolen Garbage Cart or Bin, one (1)
26 lost, destroyed, or stolen Recycling Cart or Bin, and one (1) lost, destroyed, or stolen Green
27 Waste/Organic Waste Cart or Bin during the life of this Agreement at no cost to the Service
28 Recipient.

29 3.07.3.5 Where such bin or cart replacement occurs through no
30 fault of the CONTRACTOR, CONTRACTOR shall be compensated by the customer for the cost
31 of those replacements in excess of the requirements set forth above in accordance with the
32 "Cart or Bin Exchange" Service Rate, as appropriate, as initially set by the CITY or as may be
33 adjusted by the CITY as provided under the terms of this Agreement.

34 3.07.4 Repair of Carts and Bins. CONTRACTOR shall be responsible for repair
35 of carts in the areas to include but not be limited to, hinged lids, wheels and axles. Within three
36 (3) Work Days of notification by the CITY or a Service Recipient of the need for such repairs,
37 the CONTRACTOR shall repair the cart or bin or if necessary, remove the cart or bin for repairs
38 and deliver a replacement cart or bin to the Service Recipient.

39 3.07.5 Cart or Bin Exchange. Upon notification to the CONTRACTOR by the
40 CITY or a Service Recipient that a change in the size or number of carts or bins is required, the
41 CONTRACTOR shall deliver such carts or bins to such Service Recipient within three (3) Work
42 Days. Each SFD Service Unit shall be entitled to receive one (1) free Garbage Cart exchange,
43 one (1) free Recycling Cart exchange and one (1) free Green Waste/Organic Waste Cart
44 exchange per Agreement Year during the term of this Agreement. Each MFD, Commercial and
45 City Service Unit shall be entitled to receive one (1) free Garbage Cart or Bin exchange, and
46 one (1) free Recycling Cart or Bin exchange, and one (1) free Green Waste/Organic Waste Cart

1 or Bin exchange per Agreement Year during the term of this Agreement. Accordingly
2 CONTRACTOR shall be compensated for the cost of those exchanges in excess of one (1) per
3 Agreement Year, in accordance with the "Cart or Bin Exchange" service rate as Set forth in
4 **Exhibit 1** which is attached to and included in this Agreement or as may be adjusted under the
5 terms of this Agreement.

6 3.07.5.1 Ownership of Carts and Bins. Ownership of carts shall rest
7 with the CONTRACTOR. Ownership of bins distributed by the CONTRACTOR shall rest with
8 the CONTRACTOR. However, in the case of the termination of the Agreement prior to the
9 expiration of the initial term or optional extension term due to the default of the CONTRACTOR
10 as set forth in Article 24 of this Agreement, the CITY shall have the right to take possession of
11 the carts and bins for a reasonable period of time, not to exceed three months, to allow the City
12 to enter into satisfactory arrangements with a third party or using its own forces to provide
13 Collection Services using other equipment, and there shall be no monies owing to the
14 CONTRACTOR from the CITY for the use of the equipment.

15 3.07.5.2 Upon the receipt of written notice from the CITY,
16 CONTRACTOR shall submit to the City Representative an inventory of carts and bins, including
17 their locations.

18 3.07.5.3 At the expiration of this Agreement, CONTRACTOR shall
19 be responsible for removing all carts and bins in service from the Service Area and reusing or
20 recycling such carts.

21 3.07.6 Ownership of Debris Box Containers. Ownership of Debris Box containers
22 distributed by the CONTRACTOR shall rest with the CONTRACTOR. However, in the case of
23 the termination of the Agreement prior to the expiration of the initial term or optional extension
24 term due to the default of the CONTRACTOR the CITY shall have the right to take possession
25 of the containers for a reasonable period of time, not to exceed three months, to allow the City
26 to enter into satisfactory arrangements with a third party or using its own forces to provide
27 Collection Services using other equipment and there shall be no monies owing to the
28 CONTRACTOR from the CITY for the use of the equipment. Upon the receipt of written notice
29 from the CITY, CONTRACTOR shall submit to the City Representative an inventory of
30 containers, including their locations.

31 3.07.7 Annual Inspection and Cleaning. Once each Agreement Year, at no
32 charge to the CITY or the MFD or Commercial Service Unit, CONTRACTOR shall inspect all
33 Garbage, Recycling, and Green Waste/Organic Waste Bins and Debris Box containers at the
34 Service Unit's premises and shall replace those bins needing cleaning with clean bins and
35 remove the dirty bins for cleaning.

36 3.08 Labor and Equipment. CONTRACTOR shall provide and maintain all labor,
37 equipment, tools, facilities, and personnel supervision required for the performance of
38 CONTRACTOR'S obligations under this Agreement. CONTRACTOR shall at all times have
39 sufficient backup equipment and labor to fulfill CONTRACTOR'S obligations under this
40 Agreement. No compensation for CONTRACTOR'S services or for CONTRACTOR'S supply of
41 labor, equipment, tools, facilities or supervision shall be provided or paid to CONTRACTOR by
42 CITY or by any Service Recipient except as expressly provided by this Agreement.

43 3.09 Holiday Service. CONTRACTOR will provide Collection Services on every holiday
44 except Christmas and New Year's. CONTRACTOR's office will be closed New Year's Day,
45 Martin Luther King's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and
46 Christmas Day. In any week in which one of these holidays falls on a Work Day, all Collection

1 Services for the holiday and each Work Day thereafter will be delayed one Work Day for the
2 remainder of the week with normally scheduled Friday Collection Services being performed on
3 Saturday.

4 3.10 Processing and Disposal.

5 3.10.1 Compliance with Regulations. All materials collected under this
6 Agreement shall be delivered to facilities that comply with the Department of Resources
7 Recycling and Recovery regulations under Title 14, Chapter 3, Minimum Standards for Solid
8 Waste Handling and Disposal (Article 5.9 – Sections 17380-17386). CONTRACTOR, and not
9 the CITY, must assure that all Disposal, transfer, and processing facilities are properly permitted
10 to receive material collected under this Agreement. Failure to comply with this provision shall
11 result in the levy of liquidated damages as specified in Article 19 of this Agreement and may
12 result in the CONTRACTOR being in default under this Agreement. CONTRACTOR shall be
13 responsible to ensure E-Waste is collected, reused, recycled or disposed in an environmentally
14 responsible manner from the point of collection by CONTRACTOR to the end point of disposal.

15 3.10.2 CONTRACTOR must assure that all facilities selected by CONTRACTOR
16 shall possess all existing permits and approvals by local enforcement agencies to be in full
17 compliance with all regulatory agencies to conduct all operations at the approved location.
18 CONTRACTOR shall, upon written request from the CITY, arrange for the facilities selected by
19 the CONTRACTOR to provide copies of facility permits, notices of violations, inspection areas
20 or concerns, or administrative action to correct deficiencies related to the operation. Failure to
21 provide facility information shall result in the levy of liquidated damages as specified in Article 19
22 of this Agreement and may result in the CONTRACTOR being in default under this Agreement.

23 3.10.3 Disposal Facility. Except as set forth below, all Garbage collected as a
24 result of performing Collection Services shall be transported to, and delivered on the same day
25 as Collection, at the Disposal Facility. In the event the Disposal Facility is closed on a Work
26 Day, the CONTRACTOR shall transport and dispose of the Garbage at such other legally
27 permitted disposal facility as is approved by CITY. Failure to comply with this provision shall
28 result in the levy of liquidated damages as specified in Article 19 of this Agreement and may
29 result in the CONTRACTOR being in default under this Agreement.

30 3.10.4 Materials Recovery Facility. All Recyclable Materials collected as a result
31 of performing SFD, MFD, Commercial and City Recycling Services shall be delivered to the
32 Materials Recovery Facility (MRF). In the event the MRF is closed on a Work Day, the
33 CONTRACTOR shall transport and deliver the Recyclable Material to such other legally
34 permitted MRF as is approved by CITY. Failure to comply with this provision shall result in the
35 levy of liquidated damages as specified in Article 19 of this Agreement and may result in the
36 CONTRACTOR being in default under this Agreement.

37 3.10.5 Green Waste/Organic Waste Processing Facility. CONTRACTOR shall
38 deliver on the same day as collected all Green Waste/Organic Waste to a fully permitted Green
39 Waste/Organic Waste Processing Facility. In the event the facility is closed on a Work Day, the
40 CONTRACTOR shall transport and deliver the Green Waste/Organic Waste Material to such
41 other legally permitted facility as is approved by CITY. CONTRACTOR shall ensure that all
42 Green Waste/Organic Waste collected pursuant to this Agreement, except residue resulting
43 from processing, is diverted from the Disposal Facility in accordance with AB 939 and
44 subsequent legislation and regulations. Green Waste may be used as ADC.

45 3.11 Inspections. The CITY shall have the right to inspect the CONTRACTOR'S facilities
46 or Collection vehicles and their contents at any time while operating inside or outside the CITY.

1 3.12 Commingling of Materials.

2 3.12.1 Garbage and Recyclable Material. CONTRACTOR shall not at any time
3 commingle Garbage or Green Waste/Organic Waste, collected pursuant to this Agreement, with
4 any Recyclable Material separated for Collection pursuant to this Agreement without the
5 express prior written authorization of the City Representative.

6 3.12.2 Recyclable Materials. CONTRACTOR shall not at any time commingle
7 Recyclable Materials collected pursuant to this Agreement, with any other material collected by
8 CONTRACTOR inside or outside the CITY without the express prior written authorization of the
9 City Representative.

10 3.13 Spillage and Litter. The CONTRACTOR shall not litter premises in the process of
11 providing Collection Services or while its vehicles are on the road. The CONTRACTOR shall
12 transport all materials collected under the terms of this Agreement in such a manner as to
13 prevent the spilling or blowing of such materials from the CONTRACTOR'S vehicle. The
14 CONTRACTOR shall exercise all reasonable care and diligence in providing Collection Services
15 so as to prevent spilling or dropping of Garbage, Green Waste/Organic Waste, or Recyclable
16 Materials and shall immediately, at the time of occurrence, clean up such spilled or dropped
17 materials.

18 3.13.1 The CONTRACTOR shall not be responsible for cleaning up un-sanitary
19 conditions caused by the carelessness of the Service Recipient; however, the CONTRACTOR
20 shall clean up any material or residue that are spilled or scattered by the CONTRACTOR or its
21 employees.

22 3.13.2 Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris
23 resulting from the CONTRACTOR'S operations or equipment repair shall be covered
24 immediately with an absorptive material and removed from the street surface. When necessary,
25 CONTRACTOR shall apply a suitable cleaning agent to the street surface to provide adequate
26 cleaning. To facilitate such cleanup, CONTRACTOR'S vehicles shall at all times carry sufficient
27 quantities of petroleum absorbent materials along with a broom and shovel.

28 3.13.3 The above paragraphs notwithstanding, CONTRACTOR shall clean up
29 any spillage or litter caused by CONTRACTOR within two (2) hours upon notice from the CITY.

30 3.13.4 In the event where damage to City Streets is caused by a hydraulic oil
31 spill, CONTRACTOR shall be responsible for all repairs to return the street to the same
32 condition prior to the spill. CONTRACTOR shall also be responsible for all clean-up activities
33 related to the spill. Repairs and clean-up shall be performed in a manner satisfactory to the City
34 Representative and at no cost to the CITY.

35 3.14 Ownership of Materials.

36 3.14.1 Title to Garbage, Green Waste/Organic Waste, and Recyclable Materials
37 shall pass to CONTRACTOR at such time as said materials are placed in the CONTRACTOR'S
38 Collection vehicle.

39 3.14.2 Title to material Collected as part of the City Collection Service shall pass
40 to CONTRACTOR at the time the material is placed in the Debris Box container or other
41 Collection vehicle or container approved for use at the event.

42 3.14.3 Notwithstanding the foregoing, under no circumstances shall the
43 CONTRACTOR take ownership or ever be deemed to have taken ownership of Hazardous
44 Waste or other waste that CONTRACTOR may not lawfully Recycle or dispose of at the Keller

1 in **Exhibit 1** divided by four (4) times the number of actual weeks in the month that service was
2 provided to the Service Unit.

3 4.01.2 Production of Invoices for Service Units Utilizing Cart Service. The
4 CONTRACTOR shall produce an invoice, in a form and format that is approved by the City
5 Representative, for Service Recipients utilizing carts received under this Agreement in advance
6 but no less than four (4) times per year. The CONTRACTOR'S invoice shall be remitted to the
7 Service Recipient no earlier than the twentieth (20th) day of the 1st month of the period for which
8 service is being billed. Notification of future rate increases shall be included in at least one
9 invoice prior to the affected rate increase date.

10 4.01.3 Production of Invoices for Service Units Utilizing Bin Service. The
11 CONTRACTOR shall produce an invoice, in a form and format that is approved by the City
12 Representative, for Service Recipients utilizing bins received under this Agreement in advance
13 but no less than twelve (12) times per year. The CONTRACTOR may invoice the Service
14 Recipient no less than ten (10) days preceding the month for services for which service is being
15 billed.

16 4.01.4 Production of Invoices for Debris Box Collection Service. The
17 CONTRACTOR shall produce an invoice, in a form and format that is approved by the City
18 Representative, for Debris Box Collection Services received under this Agreement in arrears for
19 services during the prior month. Service Recipients utilizing Debris Box Collection Services may
20 be invoiced upon completion of the service.

21 4.01.5 City Provided Billing Inserts. CITY may provide educational and other
22 material to CONTRACTOR for inclusion in the invoices provided by CONTRACTOR to SFD,
23 MFD and Commercial Service Recipients for Collection Services. CONTRACTOR shall not
24 charge the CITY for the inclusion of additional educational or other materials in the invoices
25 provided the inclusion of such CITY requested materials does not exceed the cost for standard
26 postage.

27 4.01.6 Methods of Payment. CONTRACTOR shall provide the means for Service
28 Recipients to pay bills through the following methods: cash, checks, credit cards, internet
29 payment service or automatic withdrawal from bank account. On-line (E-Pay) bill methods shall
30 be password protected and comply with federal regulations protecting the privacy of customer
31 credit information. CONTRACTOR shall provide evidence of such security certifications and
32 advise the CITY of CONTRACTOR'S security measures implemented for on-line payment.

33 4.01.7 Delinquent Service Accounts. CONTRACTOR agrees not to discontinue
34 service to a customer until customer's account has been delinquent in payment for a period of at
35 least 60 days. If the CONTRACTOR terminates service to any non-paying person, corporation
36 or entity, such person, corporation, or entity as a condition precedent to establishment of such
37 service, shall comply fully with all of the then billing policies and practices of the
38 CONTRACTOR, including, but not limited to, requirement of payment by cash or cash
39 equivalent, prepayment of one full billing cycle, payment of all costs of collection of monies
40 owed to CONTRACTOR, and payment of a reinstatement fee. If the CONTRACTOR
41 discontinues service for non-payment of the customer's account, CONTRACTOR shall
42 immediately give written notice to the City Manager of any discontinuance of service for
43 nonpayment of account, giving the name and address of the customers. CITY shall have no
44 responsibility for collecting monies owed to CONTRACTOR from delinquent service accounts.

45 4.01.8 Senior Discount. To receive the senior discount, the CITY shall provide
46 CONTRACTOR with the names and addresses of qualified seniors. CONTRACTOR may

1 require SFD Service Recipient to re-qualify each twelve (12) months. CONTRACTOR shall
2 invoice SFD Service Recipients qualifying for the senior discount at the rates set forth in Exhibit
3 1.

4 4.01.9 Annual Rate Increase by CPI. On July 1, 2012, CONTRACTOR may
5 increase Maximum Service Rates for all rates except SFD 20- and 32-gallon cart rates by two
6 and one-quarter percent (2.25%) but not more than four percent (4%) using the twelve (12)
7 month average percentage change in the CPI between December 2010 to December 2011,
8 CONTRACTOR shall apply the percentage change to the Maximum Services Rates as listed in
9 **Exhibit 1** as attached to this Agreement and submit the CONTRACTOR'S request for an
10 adjustment to the Maximum Service Rates to the CITY in the same form as **Exhibit 1**. On July
11 1, 2013 and July 1, 2014, CONTRACTOR may increase Maximum Service Rates by two and
12 one-quarter percent (2.25%) but not more than four percent (4%) using the twelve (12) month
13 average percentage change in the CPI between December of the current year to December of
14 the prior year. On July 1, 2015 and July 1, 2016, CONTRACTOR may increase Maximum
15 Service Rates by two percent (2%) but not more than four percent (4%) using the twelve (12)
16 month average percentage change in the CPI between December of the current year to
17 December of the prior year. On July 1, 2017 and each subsequent July 1st, CONTRACTOR may
18 increase Maximum Service Rates by not more than four percent (4%) using the twelve (12)
19 month average percentage change in the CPI between December of the current year to
20 December of the prior year. CONTRACTOR shall apply the percentage change to approved
21 current Maximum Service Rates and submit the CONTRACTOR'S request for an adjustment in
22 the Maximum Service Rates to the CITY in the same form as **Exhibit 1**.

23 4.01.9.1 Rounding. Annual adjustments shall be made only in units
24 of one cent (\$0.01) and shall not result in a decrease to the rates currently in effect. Fractions
25 of less than one cent (\$0.01) shall not be considered in making adjustments. The indices shall
26 be truncated at four (4) decimal places for the adjustment calculations.

27 4.02 CONTRACTOR'S Payments to CITY. CONTRACTOR shall make payment to the
28 CITY of a franchise fee, and such other fees as may be specified in this Article 4. Payment to
29 the CITY shall be due, on the fifteenth (15th) day of the month following the prior three month
30 period the revenues are collected. Each such payment shall be accompanied by an accounting,
31 which sets forth CONTRACTOR'S Gross Receipts collected during the preceding three months.
32 Franchise Fee payments to the CITY shall be due beginning October 15, 2011 and quarterly
33 thereafter by the 15th of January, April, July, and October.

34 4.02.1 Franchise Fee. The franchise fee shall be a percentage of
35 CONTRACTOR'S Gross Receipt collected each month under the terms of this Agreement.
36 Gross Receipt shall specifically include revenue received by the CONTRACTOR from any
37 entity, including federal, state, county or other local facilities within the Service Area for the
38 provision of Collection Services by the CONTRACTOR. However, revenue received by the
39 CONTRACTOR from the sale of Recyclable Materials and from related California Redemption
40 Value (CRV) payments shall not be considered as Gross Receipts for purpose of the calculation
41 of franchise fees. For the Agreement Year beginning July 1, 2011, the franchise fee percentage
42 shall be eight percent (8%) of Gross Receipts. For the Agreement Year beginning July 1, 2012
43 the franchise fee percentage shall be nine percent (9%) of Gross Receipts. For the Agreement
44 Year beginning July 1, 2013 and each Agreement Year thereafter, the franchise fee percentage
45 shall be ten percent (10%) of Gross Receipts. CONTRACTOR shall not pass on any franchise
46 fee of ten percent (10%) or less in its Maximum Service Rates. In the event that the City adjusts
47 the franchise fee percentage above ten percent (10%), the Maximum Service Rates will also be
48 adjusted to incorporate any such changes in the franchise fee percentage.

1 4.02.2 Vehicle Impact Fee. The CONTRACTOR shall pay the CITY \$145,000
2 divided into twelve (12) equal monthly payments of \$12,083.33. The 1st payment to the CITY
3 shall be due July 15, 2011 and on the fifteenth (15th) day of each month thereafter. These fees
4 will be adjusted by the same percentage as adjustments to the Collection Element, unless
5 otherwise changed by City Council action.

6 4.02.3 Franchise Extension Fee. CONTRACTOR shall pay the CITY \$150,000
7 within thirty (30) days upon execution of this Agreement. Beginning July 15, 2011, and on each
8 subsequent July 15th for ten (10) Agreement Years, CONTRACTOR shall also pay the CITY
9 \$30,000.

10 4.02.4 Recyclables Revenue Share. Starting on July 15, 2012, and each
11 subsequent July 15th, CONTRACTOR shall pay the CITY fifty percent (50%) of revenue
12 received on amounts over \$100 per ton from the sale of Recyclable Materials where the actual
13 amount received by the CONTRACTOR exceeds \$100 per ton for all Recyclables Materials sold
14 during the prior Agreement Year. Recyclables Revenue Share shall be determined on an
15 Agreement Year based on the total Recyclables Materials collected, net of residual, and the
16 total revenue received by the CONTRACTOR for the purchase of Recyclable Materials by third
17 parties, net of any processing, residual disposal costs, or transportation costs incurred by the
18 CONTRACTOR.

19 4.02.5 Negotiation Assistance Fee. CONTRACTOR shall pay the CITY \$25,000
20 within thirty (30) days upon execution of this Agreement to reimburse the CITY for the CITY's
21 cost to prepare this Agreement.

22 4.02.6 No acceptance by CITY of any payment shall be construed as an accord
23 that the amount is not in-fact the correct amount, nor shall such acceptance of payment be
24 construed as a release of any claim CITY may have against CONTRACTOR for any additional
25 sums payable under the provisions of this Agreement. All amounts paid shall be subject to
26 independent audit and recompilation by CITY. If, after the audit, such recompilation indicates an
27 underpayment CONTRACTOR shall pay to CITY the amount of the underpayment and shall
28 reimburse CITY for all reasonable costs and expenses incurred in connection with the audit and
29 recompilation within ten (10) Work Days of receipt of written notice from CITY that such is the
30 case. If, after audit, such recompilation indicates an overpayment, CITY shall notify the
31 CONTRACTOR in writing of the amount of the overpayment, less costs and expenses incurred
32 in connection with the audit and recompilation. CONTRACTOR may offset the amounts next
33 due following receipt of such notice by the amount specified therein.

34 4.03 Tonnage Data. Within thirty (30) days upon execution of the Agreement and on the
35 twentieth (20th) day of each month thereafter during the term of this Agreement,
36 CONTRACTOR shall deliver to CITY a listing of the actual tonnage collected, disposed,
37 recycled, Composted, and residue for the preceding month sorted between SFD, MFD
38 Commercial and CITY Service Units and between Debris Box containers and all other
39 containers to the extent practical.

40 4.04 Special Rate Adjustment. A special rate change may be approved at any time it
41 can be established that there is good cause based on a significant change in circumstances.
42 Significantly changed circumstances may include City directed changes in service pursuant to
43 Section 25.03, or other dramatic changes in costs not within the control of CONTRACTOR. If
44 CONTRACTOR does desire to seek a special rate change, CONTRACTOR shall submit to the
45 City Manager a thorough written explanation of the significantly changed circumstances, as well
46 as an explanation of why these extraordinary circumstances constitute good cause for making
47 such an application and the amount of the rate adjustment requested by CONTRACTOR,

1 together with such other data and supporting documentation as may be required by City
2 Manager.

3 4.04.1 The City Manager shall determine within 90 days whether good cause
4 exists for an adjustment in rates. If it has been determined that good cause does exist, a
5 hearing on the proposed maximum rate adjustments will be scheduled before the City Council
6 within 60 days after the City Manager's determination. The City Council shall consider the
7 CONTRACTOR's application and such other materials and information reasonably requested by
8 the City Council from CONTRACTOR to assess the merits of CONTRACTOR's application. The
9 City Council will consider an adjustment to CONTRACTOR's maximum rates to compensate
10 CONTRACTOR for its reasonable, net costs of providing such additional or modified services.
11 No action from the City Manager within the 90-day period shall be considered an appealable
12 denial, as described below. CITY and CONTRACTOR shall agree to the effective date of any
13 such Special Rate Adjustment as approved by the City Council.

14 4.04.2 If the City Manager determines that good cause does not exist,
15 CONTRACTOR shall have ten days in which to file an appeal of the determination with the City
16 Council. That appeal shall be placed on the City Council's agenda as soon as practicable.

17 4.04.3 The Council's decision shall be conclusive. However, nothing in this
18 Agreement shall be construed to prevent either party from seeking judicial relief for any breach
19 of any provision of this Agreement by either party.

20 ARTICLE 5. Diversion Requirements

21 5.01 Minimum Requirements. CITY and CONTRACTOR acknowledge that the period
22 from July 1, 2011 through December 31, 2011 will be used by the CONTRACTOR to implement
23 the new diversion programs as specified in this Agreement, and that measurement of state
24 diversion requirements is done on a calendar year basis. Therefore, the CITY requires the
25 CONTRACTOR to use its best efforts to achieve a minimum annual diversion rate of **fifty-five**
26 **percent (55%)** by December 31, 2012, increase to **sixty percent (60%)** by December 31, 2013,
27 increase to **sixty-five percent (65%)** by December 31, 2014, increase to seventy percent (70%)
28 by December 31, 2015 and be no lower than **seventy-five percent (75%)** by December 31,
29 2016 and each year thereafter for SFD Collection Services, MFD Collection Services,
30 Commercial Collection Services, CITY Collection Services, and Debris Box Collection Services,
31 or such other amount as may be set in accordance with the provisions of Article 25 of this
32 Agreement during each calendar year beginning January 1, 2012. The annual diversion rate will
33 be calculated as "the tons of materials collected by CONTRACTOR from the provision of
34 Collection Services that are sold, processed, or shipped to a recycler or re-user and net of any
35 residue amounts, as required by this Agreement, divided by the total tons of materials collected
36 by CONTRACTOR in each calendar year."

37 5.02 Failure to Meet Minimum Requirements. CONTRACTOR'S failure to meet the
38 minimum diversion guarantees set forth above in Article 5 may result in the imposition of
39 liquidated damages as specified in Article 19, or denial of an extension to this Agreement as
40 specified in Article 2. In determining whether or not to assess liquidated damages, or denial of a
41 term extension, the CITY will consider the good faith efforts put forth by the CONTRACTOR in
42 implementing the required programs as specified in this Agreement to meet the minimum
43 diversion requirements and the methods and level of effort of the CONTRACTOR.

ARTICLE 6. Service Units

6.01 Service Units. Service Units shall include all the following categories of premises which are in the Service Area as of July 1, 2011, and all such premises which may be added to the Service Area by means of annexation, new construction, or as otherwise set forth in this Agreement during term of this Agreement:

6.01.1 SFD Service Units

6.01.2 MFD Service Units

6.01.3 Commercial Service Units

6.01.4 CITY Service Units

6.01.4.1 Any question as to whether a premises falls within one of these categories shall be determined by the City Representative and the determination of the City Representative shall be final.

6.02 Service Unit Changes. The CITY and CONTRACTOR acknowledge that during the term of this Agreement it may be necessary or desirable to add or delete Service Units for which CONTRACTOR will provide Collection Services.

6.02.1 Additions and Deletions. CONTRACTOR shall provide services described in this Agreement to new Service Units within five (5) Work Days of receipt of notice from the CITY or new Service Unit to begin such service.

6.03 Route Map Update. CONTRACTOR shall revise the Service Unit route maps to show the addition of Service Units added due to annexation and/or addition of new Service Areas and shall provide such revised maps to the City Representative as requested.

ARTICLE 7. SFD Collection Services

7.01 SFD Collection Services. These services shall be governed by the following terms and conditions:

7.01.1 Conditions of Service. The CONTRACTOR shall provide SFD Collection Service to all SFD Service Units in the Service Area whose Garbage is properly containerized in Garbage Carts, Recyclable Materials are properly containerized in Recycling Carts, except as set forth in Section 7.01.5.3; and Green Waste/Organic Waste is properly containerized in Green Waste/Organic Waste Carts except as set forth in Section 7.01.9. SFD Collection Service shall be curbside unless the Service Recipient elects to receive On-Premise Collection Service. CONTRACTOR may not charge for the Collection of Recyclable Materials or Green Waste/Organic Waste.

7.01.1.1 Curbside Collection Service. SFD curbside Collection shall be done where Garbage, Recyclable Materials and Green Waste/Organic Waste Carts are placed within five (5) feet of the curb, swale, or at edge of street pavement for streets without curbs. Carts shall be three (3) feet apart and away from other objects that may impair automated Collection. This shall apply to both public and private streets. CONTRACTOR may charge for curbside Collection at the rates as set forth in **Exhibit 1**.

7.01.1.2 On-Premise Collection Service - Subscription. A SFD Service Recipient may subscribe for on-premise SFD Collection Service where Garbage, Recyclable Materials, and Green Waste/Organic Waste Carts are collected from a side-yard, backyard, or other off-street location agreed on between the CONTRACTOR and the Service

1 Recipient. CONTRACTOR may charge for on-premise Collection at the rates as set forth in
2 **Exhibit 1.**

3 7.01.1.3 On-Premise Collection Service – Physical Disability. A
4 SFD Service Recipient, and all other adults living at the Service Unit residing therein, that has
5 disabilities that prevent him/her from being physically unable to place Garbage, Recyclable
6 Materials, or Green Waste/Organic Waste Carts at the curb for Collection shall receive on-
7 premise Collection Service where all Garbage, Recyclable Materials, and Green Waste/Organic
8 Waste Carts are Collected from a side-yard, backyard, or other off-street location agreed on
9 between the CONTRACTOR and the Service Recipient. SFD Service Recipient shall provide
10 CONTRACTOR with written documentation from a health care provider regarding their inability
11 to physically place all carts at the curb for Collection. CONTRACTOR shall provide this service
12 at the curbside SFD Collection Service rates as set forth in **Exhibit 1.**

13 7.01.2 Frequency and Scheduling of Service. Except as set forth in Articles
14 7.01.7, 7.01.8, 7.01.9 and 7.01.11, SFD Garbage Collection Services and SFD Recycling
15 Collection Services shall be provided one (1) time per week, and SFD Green Waste/Organic
16 Waste Collection Services shall be provided every other week on a scheduled route basis. SFD
17 Collection Services shall be scheduled so that a SFD Service Unit receives SFD Garbage
18 Collection Service and SFD Recycling Service on the same Work Day, and when SFD Green
19 Waste/Organic Waste Collection Service is provided it shall be provided on the same Work Day
20 as SFD Garbage Collection Services.

21 7.01.3 Non-Collection. Except as set forth in Articles 7.01.5.3, 7.01.9,
22 7.01.10, and 7.01.11 CONTRACTOR shall not be required to Collect any Garbage, Recyclable
23 Material, or Green Waste/Organic Waste that is not placed in a cart. In the event of non-
24 collection, CONTRACTOR shall affix to the cart a Non-Collection Notice explaining why
25 Collection was not made. CONTRACTOR shall maintain a copy of such notices during the term
26 of this Agreement.

27 7.01.4 SFD Garbage Collection Service. This service will be governed by the
28 following additional terms and conditions:

29 7.01.4.1 Disposal Facility. All Garbage collected as a result of
30 performing SFD Garbage Collection Services shall be transported to, and disposed of, at the
31 Disposal Facility. Failure to comply with this provision shall result in the levy of liquidated
32 damages as specified in this Agreement and may result in the CONTRACTOR being in default
33 under this Agreement.

34 7.01.4.2 Additional Garbage Carts. Upon notification to the
35 CONTRACTOR by the CITY or a Service Recipient that additional Garbage Carts are
36 requested, the CONTRACTOR shall deliver such Garbage Carts to such Service Recipient
37 within five (5) Work Days. CONTRACTOR shall be compensated for the cost of additional
38 Garbage Carts in accordance with the “Additional Garbage Cart” Service Rate as set forth in
39 **Exhibit 1a** or as may be adjusted under the terms of this Agreement.

40 7.01.5 SFD Recycling Service. This service will be governed by the additional
41 following terms and conditions:

42 7.01.5.1 Materials Recovery Facility. All Recyclable Materials
43 collected as a result of performing SFD Garbage Collection Services shall be delivered to the
44 Materials Recovery Facility. Failure to comply with this provision shall result in the levy of
45 liquidated damages as specified in this Agreement and may result in the CONTRACTOR being
46 in default under this Agreement.

1 7.01.5.2 Additional Recycling Carts. Upon notification to the
2 CONTRACTOR by the CITY or a Service Recipient that additional Recycling Carts are
3 requested, the CONTRACTOR shall deliver such Recycling Carts to such Service Recipient
4 within five (5) Work Days at no additional cost provided that additional carts are used by Service
5 Recipients for the purposes of setting out additional Recyclable Materials for regular weekly
6 SFD Recycling Service.

7 7.01.5.3 Overages. Corrugated cardboard or other Recyclable
8 Materials that will not fit inside the Recycling Cart may be flattened, bagged and/or bundled and
9 placed beside the Recycling Cart.

10 7.01.5.4 Recycling - Changes to Work. Should changes in law arise
11 that necessitate any additions or deletions to the work described herein including the type of
12 items included as Recyclable Materials, the parties shall negotiate any necessary cost changes
13 and shall enter into an Agreement amendment covering such modifications to the work to be
14 performed and the compensation to be paid before undertaking any changes or revisions to
15 such work.

16 7.01.5.5 Recycling - Improper Procedure. CONTRACTOR shall not
17 be required to collect Recyclable Materials if the Service Recipient does not segregate the
18 Recyclable Materials from Garbage or Green Waste/Organic Waste. If Recyclable Materials are
19 contaminated through commingling with Garbage or Green Waste/Organic Waste, the
20 CONTRACTOR shall, if practical, separate the Garbage or Green Waste/Organic Waste from
21 the Recyclable Materials. The Recyclable Materials shall then be collected and the Garbage or
22 Green Waste/Organic Waste shall be left in the Recycling Cart along with a Non-Collection
23 Notice explaining why the Garbage or Green Waste/Organic Waste is not considered a
24 Recyclable Material. However, in the event the Recyclable Materials and Garbage or Green
25 Waste/Organic Waste are commingled to the extent that they cannot easily be separated by the
26 CONTRACTOR or the nature of the Garbage or Green Waste/Organic Waste renders the entire
27 Recycling Cart contaminated, the CONTRACTOR will leave the Recycling Cart un-emptied
28 along with a Non-Collection Notice that contains instructions on the proper procedures for
29 setting out Recyclable Materials.

30 7.01.6 SFD Green Waste/Organic Waste Collection Service. CONTRACTOR
31 and the CITY agree that SFD Green Waste/Organic Waste Collection Service shall be
32 mandatory service except at locations identified in **Exhibit 8**. This service will be governed by
33 the following terms and conditions:

34 7.01.6.1 Green Waste/Organic Waste Processing Services.
35 CONTRACTOR shall ensure that all Green Waste/Organic Waste collected pursuant to this
36 Agreement are diverted from the landfill in accordance with AB 939 and any subsequent or
37 other applicable legislation and regulations.

38 7.01.6.2 Green Waste/Organic Waste Processing Facility.
39 CONTRACTOR shall deliver all collected Green Waste/Organic Waste to a fully permitted
40 Green Waste/Organic Waste Processing Facility or a fully permitted Green Waste/Organic
41 Waste transfer station. All expenses related to Green Waste/Organic Waste processing and
42 marketing will be the sole responsibility of CONTRACTOR.

43 7.01.6.3 Green Waste/Organic Waste Disposal. CONTRACTOR
44 shall ensure that the Green Waste/Organic Waste collected pursuant to this Agreement is not
45 disposed of in a landfill, except as Alternative Daily Cover (ADC) or a residue resulting from
46 processing.

1 7.01.6.4 Additional Green Waste/Organic Waste Carts.
2 CONTRACTOR shall provide additional Green Waste/Organic Waste Carts to Service
3 Recipients within five (5) days of request at no additional cost provided that additional carts are
4 used by Service Recipients for the purposes of setting out additional Green Waste/Organic
5 Waste for regular biweekly Green Waste/Organic Waste Collection Service.

6 7.01.7 Compost Give-Aways. Twice each year the CONTRACTOR shall host a
7 free Compost give-away for residents to collect three (3) cubic feet of material that can be used
8 in their gardens. The time and location of the Compost give-aways shall be agreed on between
9 the CITY and CONTRACTOR. It shall be announced through billing inserts and/or newsletters
10 the CONTRACTOR produces and distributes to SFD and MFD Service Units.

11 7.01.8 Home Compost Workshops. CONTRACTOR shall offer free home
12 Compost workshops four (4) times per year. Workshops shall educate Service Recipients how
13 to Compost, benefits of Composting and uses of Compost. CONTRACTOR shall provide
14 attending Service Recipients with a 50% discount for one home Compost bin. CONTRACTOR
15 shall partner with other community groups to create educational home Composting programs.

16 7.01.9 Holiday Tree Chipping. CONTRACTOR shall provide holiday tree
17 chipping operation subject to obtaining necessary City permits. CONTRACTOR may hire a
18 subcontractor for this service. CONTRACTOR may make other arrangements, such as a
19 subcontract with chipping service to assist Boy Scout fundraising efforts, upon approval by the
20 CITY.

21 7.01.10 Household Hazardous Waste (HHW) Collection. This service will be
22 governed by the following terms and conditions:

23 7.01.10.1 Curbside Household Hazardous Waste (HHW) Collection.
24 CONTRACTOR shall provide curbside collection of HHW as part of CONTRACTOR'S regularly
25 scheduled SFD Recycling Service. Materials collected through curbside HHW Collection shall
26 include dry cell household batteries, PDAs, cell phones, used motor oil, used oil filters when
27 contained in a sealed plastic bag, and compact fluorescent light bulbs contained in a sealed
28 plastic bag.

29 7.01.10.2 On-Call Household Hazardous Waste (HHW) Collection.
30 CONTRACTOR shall provide on-call collection of HHW or subcontract for this service beginning
31 on or before January 1, 2012. CONTRACTOR shall provide collection when SFD Service
32 Recipients call at least seven (7) calendar days in advance to schedule collection, and identify a
33 secure location on their property from which the materials will be collected. Materials collected
34 through On-call HHW Collection shall include cleaning products, pesticides, E-Waste,
35 herbicides, insecticides, painting supplies, automotive products, fuel, lubricants, paint, solvents,
36 stripes, and adhesives, auto batteries, non-controlled medicines, Sharps, and Universal Waste.
37 CONTRACTOR shall coordinate annual collection of cooking oil as mutually agreed upon by
38 CITY and CONTRACTOR. All items in **Exhibit 7** shall be collected and the list may be
39 amended by agreement of the CONTRACTOR and CITY from time to time.

40 7.01.10.3 Used Oil and Used Oil Filter Containers. To the extent
41 allowed by CONTRACTOR, Service Recipients may provide their own used oil and used filter
42 containers as specified by the CONTRACTOR. However, in the event CONTRACTOR allows
43 the use of resident-provided containers, CONTRACTOR shall assume any and all liabilities
44 related to the use of such resident-provided containers. CONTRACTOR shall be reimbursed for
45 curbside oil and oil filter collection from the CITY'S oil grant funds as provided by CalRecycle.

1 Should these funds be no longer available, the CONTRACTOR shall bear the full cost of this
2 service.

3 7.01.10.4 Segregation of Used Oil. CONTRACTOR shall keep all
4 used oil and used oil filters collected pursuant to this Agreement segregated from other
5 materials.

6 7.01.10.5 Used Oil Processing. CONTRACTOR shall recycle all used
7 oil collected pursuant to this Agreement to the extent feasible and shall properly dispose of all
8 used oil and used oil filters that are contaminated or otherwise cannot be recycled.

9 7.01.10.6 CONTRACTOR shall notify the City Representative either
10 by fax or e-mail, of any contamination, which renders the used oil unacceptable for recycling or
11 which, requires disposal of the used oil or used oil filters as a Hazardous Waste.

12 7.01.11 SFD Bulky Waste Collection Service. This service will be governed by
13 the following terms and conditions:

14 7.01.11.1 Conditions of Service. The CONTRACTOR shall provide
15 SFD Bulky Waste Collection Service to all SFD Service Units in the Service Area whose Bulky
16 Waste have been placed within five (5) feet of the curb, swale, paved surface of the public or
17 private roadway, closest accessible roadway, or other such location agreed to by the
18 CONTRACTOR and Service Recipient, that will provide safe and efficient accessibility to the
19 CONTRACTOR'S collection crew and vehicle. Each SFD Service Unit in the Service Area shall
20 be entitled to receive free Bulky Waste Collection Service a maximum of three (3) collection
21 times per Agreement Year. Bulky Waste Collection Service shall be a combination of loose
22 Bulky Waste not exceeding an approximately equivalent of two (2) cubic yards and three (3)
23 individual Bulky Waste such as a TV, couch, or water heater, for items specified in **Exhibit 1a**.
24 In accordance with the "Additional Bulky Waste Collection" service rate as set in **Exhibit 1a**,
25 CONTRACTOR shall be compensated for the cost of Collecting Bulky Waste in excess of 1) a
26 single collection of over two (2) cubic yards, 2) more than three (3) Bulky Waste Collections per
27 year, or more than three (3) individual Bulky Waste during any single Bulky Waste Collection.

28 7.01.11.2 Frequency of Service. SFD Service Recipients must call at
29 least forty-eight (48) hours in advance to schedule SFD Bulky Waste Collection Service.
30 Collection will occur on the customer's regular collection day.

31 7.01.11.3 Bulky Waste Containing Freon. In the event
32 CONTRACTOR collects Bulky Waste that contain Freon, CONTRACTOR shall handle such
33 items in a manner such that the Bulky Waste are not subject to regulation as Hazardous Waste
34 under applicable state and federal laws or regulations.

35 7.01.11.4 Annual Reuse Days. CONTRACTOR shall coordinate two
36 (2) Reuse Days with the CITY. Material collected will be determined by participating nonprofits
37 or other organizations receiving the material. CONTRACTOR shall dispose of items collected in
38 accordance with the following hierarchy: reuse as is (where energy efficiency is not
39 compromised); disassembly for reuse or recycling; recycle; disposal. CONTRACTOR shall
40 provide CITY with tonnage and data of material collected and final destination.

41 7.01.11.5 On Call Curbside Reuse Collection. The CONTRACTOR
42 shall provide SFD On Call Curbside Reuse Collection Service to all SFD Service Units in the
43 Service Area two (2) times per month. Reusable items collected shall be agreed upon by
44 CONTRACTOR and CITY. Reuse items must be placed within five (5) feet of the curb, swale,
45 paved surface of the public or private roadway, closest accessible roadway, or other such
46 location agreed to by the CONTRACTOR and Service Recipient, that will provide safe and

1 efficient accessibility to the CONTRACTOR'S collection crew and vehicle. CONTRACTOR shall
2 dispose of Reuse items collected from Service Units pursuant to this Agreement in accordance
3 with the following hierarchy: Reuse as is (where energy efficiency is not compromised);
4 disassembly for reuse or recycling; recycle; disposal.

5 7.01.11.6 On Call Recycle Collection. CONTRACTOR shall provide
6 SFD On Call Recycle Collection Service to all SFD Service Units
7 in the Service Area four (4) times per year for Green Waste and/or cardboard. Recyclable
8 Materials must be placed within five (5) feet of the curb, swale, paved surface of the public or
9 private roadway, closest accessible roadway, or other such location agreed to by the
10 CONTRACTOR and Service Recipient, that will provide safe and efficient accessibility to the
11 CONTRACTOR'S collection crew and vehicle.

12 7.01.11.7 Maximum Reuse and Recycling. CONTRACTOR shall
13 dispose of Bulky Waste collected from Service Units pursuant to this Agreement in accordance
14 with the following hierarchy:

15 7.01.11.7.1. Reuse as is (where energy efficiency is not
16 compromised)

17 7.01.11.7.2. Disassemble for reuse or recycling

18 7.01.11.7.3. Recycle

19 7.01.11.7.4. Disposal

20 7.01.11.8 CITY Direction of Bulky Waste. CITY reserves the right to
21 direct CONTRACTOR to take Bulky Waste collected pursuant to this Section to a designated
22 site or sites for the purpose of permitting persons who will reuse or recycle such Bulky Waste to
23 obtain the Bulky Waste at no cost. CONTRACTOR shall have no obligation to dispose of the
24 Bulky Waste or Large Item residue remaining at the directed site or sites after reusers and
25 recyclers have removed reusable or recyclable Bulky Waste. CONTRACTOR shall be entitled to
26 an adjustment to the service rates to reflect any increased costs arising from the CITY'S
27 direction.

28 7.01.12 SFD Debris Box Service. Upon twenty four (24) hours request by
29 a SFD Service Unit for a Debris Box container, CONTRACTOR shall provide a Debris Box
30 container at the Service Unit. Such SFD Debris Box Service shall be on a temporary basis not
31 to exceed fourteen (14) days without Collection, emptying, and replacement of the Debris Box
32 container.

33 7.01.12.1 Debris Box containers shall be transported by
34 CONTRACTOR to an approved processing facility to achieve maximum diversion.

35 7.01.12.2 Charges for Debris Box containers shall be in accordance
36 with **Exhibit 1c** of this Agreement.

37 7.01.12.3 The CONTRACTOR shall provide SFD Debris Box
38 Services with as little disturbance as possible and shall leave any Debris Box containers in an
39 upright position at the same point it was collected without obstructing alleys, roadways,
40 driveways, sidewalks, or mail boxes. CONTRACTOR may not place a Debris Box container in
41 any public right-of way without the prior written approval by the CITY.

42 7.01.12.4 CONTRACTOR shall remove any and all graffiti within 24
43 hours of being identified by the CONTRACTOR or City Representative. CONTRACTOR shall

1 not deliver a Debris Box container without CONTRACTOR information or with any graffiti visible
2 on the Debris Box container.

3 ARTICLE 8. MFD Collection Services

4 8.01 MFD Collection Services. MFD Collection Services will be governed by all
5 conditions of service as specified in Article 9 of this Agreement, with the following additional
6 services:

7 8.01.1 MFD Recycling Tote Bags. CONTRACTOR shall provide Recycling Tote
8 Bags to MFD Service Units upon seventy-two (72) hours of request by the MFD Service Unit.

9 8.01.2 MFD Large Item Collection. The CONTRACTOR shall provide MFD Large
10 Item Collection Service to MFD Service Units in the Service Area in a manner agreed to
11 between the CONTRACTOR and the MFD Service Unit management. CONTRACTOR shall be
12 compensated for the cost of Collecting Bulky Waste in accordance with the "MFD Large Item
13 Collection" Maximum Service Rate as set in **Exhibit 1b** of this Agreement.

14 ARTICLE 9. Commercial Collection Services

15 9.01 Commercial Collection Services. These services will be governed by the
16 following terms and conditions:

17 9.01.1 Conditions of Service. The CONTRACTOR shall provide Commercial
18 Garbage Collection Service, Commercial Recycling Service, and Commercial Green
19 Waste/Organic Collection Service to all Commercial Service Units in the Service Area whose
20 Garbage, Recyclable Material, and Green Waste/Organic Waste are properly containerized in
21 carts or bins as appropriate where the carts and bins are accessible as set forth in Section
22 9.01.3. CONTRACTOR shall also conduct commercial recycling surveys and offer free
23 commercial waste assessments. CONTRACTOR shall offer Garbage Carts in 32, 64 and 96
24 gallon cart sizes, and Recycling and Green Waste/Organic Waste Carts in 32, 64 and 96 gallon
25 cart sizes. CONTRACTOR shall offer Garbage, Recycling, and Green Waste/Organic Waste
26 Bins in 1, 2, 3, 4, 5, 6 and 8 cubic yard sizes. CONTRACTOR shall offer Debris Box containers
27 in 8, 10, 20, 30, and 40 cubic yard sizes. The size of the container and the frequency (above the
28 minimum) of Collection shall be determined between the Service Recipient and the
29 CONTRACTOR. However, the size and frequency shall be sufficient to provide that no
30 Garbage, Recyclable Materials, or Green Waste/Organic Waste need be placed outside the
31 cart, bin or Debris Box container.

32 9.01.2 Equal Capacity. CONTRACTOR shall provide Commercial
33 Recycling Service and Commercial Green Waste/Organic Waste Collection Service to all
34 Commercial Service Units in the Service Area. For each Commercial Service Unit,
35 CONTRACTOR shall provide a minimum capacity of Commercial Recycling Service and
36 Commercial Green Waste/Organic Waste Collection Service equal to the capacity measured as
37 the total cubic yards collected weekly for Commercial Garbage Collection Service. Commercial
38 Green Waste/Organic Waste Collection Service will not have a minimum capacity should no
39 material be generated for this service.

40 9.01.3 Accessibility. CONTRACTOR shall Collect all Garbage, Recycling, or
41 Green Waste/Organic Waste Carts or Bins that are readily accessible to the CONTRACTOR'S
42 crew and vehicles and not blocked. However, CONTRACTOR shall provide "push services" as

1 necessary during the provision of Commercial Collection Services as long as they comply with
2 CONTRACTOR'S safety policies.

3 9.01.4 Manner of Collection. The CONTRACTOR shall provide Commercial
4 Collection Service with as little disturbance as possible and shall leave any cart or bin at the
5 same point it was originally located without obstructing alleys, roadways, driveways, sidewalks
6 or mail boxes.

7 9.02 Commercial Garbage Collection Service. This service shall be governed by the
8 following terms and conditions.

9 9.02.1 Size and Frequency of Service. This service shall be provided as deemed
10 necessary and as determined between the CONTRACTOR and the Service Recipient, but such
11 service shall be received no less than one (1) time per week with no exception for holiday(s) as
12 set forth herein, except that Collection Service scheduled to fall on a holiday may be
13 rescheduled as determined between the Service Recipient and the CONTRACTOR as long as
14 the minimum frequency requirement is met. Service may be provided by cart or bin at the option
15 of the Service Recipient. The size of the container and the frequency (above the minimum) of
16 Collection shall be determined between the Service Recipient and the CONTRACTOR.
17 However, size and frequency shall be sufficient to provide that no Garbage need be placed
18 outside the cart or bin. The CONTRACTOR shall provide containers as part of the Commercial
19 Collection Service rates set forth in **Exhibit 1c**.

20 9.02.2 Non-Collection. CONTRACTOR shall not be required to Collect any
21 Garbage that is not placed in a Garbage Cart or Bin unless such Garbage is outside the
22 Garbage Cart or Bin as a result of overflow. In the event of non-collection, CONTRACTOR shall
23 affix to the Garbage Cart or Bin or a Non-Collection Notice explaining why Collection was not
24 made.

25 9.02.3 Commercial Garbage Overflow. In the case of repeated overflows of
26 Garbage, CONTRACTOR shall contact the Commercial Service Unit management to arrange
27 for an appropriate change in Garbage Cart or Bin size, Collection frequency or both. In the
28 event, CONTRACTOR cannot successfully contact the Commercial Service Unit management
29 after three attempts, or cannot reach an agreement with such management regarding the
30 change in service, CONTRACTOR shall advise the City Representative, either by fax or e-mail,
31 of the details of the Garbage overages, and the attempts at communication with the Commercial
32 Service Unit management. The City Representative shall respond to CONTRACTOR'S report
33 and make a final written determination. Within five (5) Work Days of receipt of the City
34 Representative's written determination, CONTRACTOR shall change the Collection Service in
35 accordance with such written determination and charge the customer for the new service level
36 designated by the City.

37 9.02.4 Disposal Facility. All Garbage collected as a result of performing
38 Commercial Garbage Collection Services shall be transported to, and disposed of, at the
39 Disposal Facility. Failure to comply with this provision shall result in the levy of an administrative
40 charge as specified in this Agreement and may result in the CONTRACTOR being in default
41 under this Agreement.

42 9.03 Commercial Recycling Service. This service will be governed by the following terms
43 and conditions:

44 9.03.1 Conditions of Service. The CONTRACTOR shall provide Commercial
45 Recycling Service to all Commercial Service Units in the Service Area whose Recyclable
46 Materials are properly containerized in Recycling Carts or Bins, except as set forth below, where

1 the Recycling Carts or Bins are accessible. CONTRACTOR may also provide mixed waste
2 processing of Garbage for recovery of Recyclable Materials. CONTRACTOR may not charge
3 for collection of Recyclable Materials from customers using bin or cart service. CONTRACTOR
4 may charge for collection of Recyclable Materials from customers utilizing Debris Box or
5 Compactor service.

6 9.03.2 Size and Frequency of Service. This Service shall be provided as
7 deemed necessary and as determined between the CONTRACTOR and the Service Recipient,
8 but such service shall be received no less than one (1) time per week with no exception for
9 holiday(s) as set forth herein, except that Collection Service scheduled to fall on a holiday may
10 be rescheduled as determined between the Service Recipient and the CONTRACTOR as long
11 as the minimum frequency requirement is met. Service may be provided by cart or bin at the
12 option of the Service Recipient. The size of the container and the frequency (above the
13 minimum) of Collection shall be determined between the Service Recipient and the
14 CONTRACTOR. However, size and frequency shall be sufficient to provide that no Recyclable
15 Materials need be placed outside the cart or bin. The CONTRACTOR shall provide containers
16 as part of the Commercial Collection Service rates set forth in **Exhibit 1c**, however, Service
17 Recipients may own their Compactor provided that the Service Recipient is completely
18 responsible for its proper maintenance and such Compactor shall be of a type that can be
19 serviced by the CONTRACTOR'S equipment.

20 9.03.3 Recycling - Improper Procedure. The CONTRACTOR shall not be
21 required to Collect Recyclable Materials if the Service Recipient does not segregate the
22 Recyclable Materials from Garbage. In the event the Recyclable Materials and Garbage are
23 commingled to the extent that they cannot easily be separated by the CONTRACTOR or the
24 nature of the Garbage renders the entire Recycling Cart or Bin contaminated, the
25 CONTRACTOR will leave the Recycling Cart or Bin un-emptied along with a Non-Collection
26 Notice which contains instructions on the proper procedures for setting out Recyclable
27 Materials. Upon notification from the City Representative, CONTRACTOR shall Collect the
28 contaminated Recyclable Materials as part of the next regularly scheduled Commercial Garbage
29 Collection and dispose of it at the Disposal Facility.

30 9.03.4 Additional Recycling Bins or Carts. CONTRACTOR shall provide an
31 appropriate number of additional Commercial Recycling Carts and Bins to Commercial Service
32 Recipients within five (5) days of request at no additional cost provided that additional carts and
33 bins are used by Commercial Service Recipients for the purposes of setting out additional
34 Recycling Materials for regular weekly Commercial Recycling Collection Service.

35 9.03.5 Materials Recovery Facility. All Recyclable Materials collected as a
36 result of performing Commercial Recycling Services shall be delivered to the Materials
37 Recovery Facility. Failure to comply with this provision shall result in the levy of an
38 administrative charge as specified in this Agreement and may result in the CONTRACTOR
39 being in default under this Agreement.

40 9.03.6 Recycling - Changes to Work. Should changes in law arise that
41 necessitate any additions or deletions to the work described herein including the type of items
42 included as Recyclable Materials, the parties shall negotiate any necessary cost changes and
43 shall enter into an Agreement amendment covering such modifications to the work to be
44 performed and the compensation to be paid before undertaking any changes or revisions to
45 such work.

46 9.04 Commercial Green Waste/Organic Waste Collection Service. This service will be
47 governed by the following terms and conditions:

1 9.04.1 Conditions of Service. The CONTRACTOR shall provide Commercial
2 Green Waste/Organic Waste Collection Service to all Commercial Service Units in the Service
3 Area where appropriate at whose Green Waste/Organic Waste is properly containerized in
4 Green Waste/Organic Waste Carts or Bins, except as set forth below, where the Green
5 Waste/Organic Waste Carts or Bins are accessible. CONTRACTOR may charge for collection
6 of Commercial Green Waste/Organic Wastes for the rates set forth in **Exhibit 1c**.

7 9.04.2 Size and Frequency of Service. This Service shall be provided as
8 deemed necessary and as determined between the CONTRACTOR and the Service Recipient,
9 but such service shall be received no less than one (1) time per week with no exception for
10 holiday(s) as set forth herein, except that Commercial Green Waste/Organic Waste Collection
11 Service scheduled to fall on a holiday may be rescheduled as determined between the Service
12 Recipient and the CONTRACTOR as long as the minimum frequency requirement is met.
13 Service may be provided by cart or bin at the option of the Service Recipient. The size of the
14 container and the frequency (above the minimum) of Collection shall be determined between
15 the Service Recipient and the CONTRACTOR. However, size and frequency shall be sufficient
16 to provide that no Green Waste/Organic Waste need be placed outside the cart or bin. Service
17 Recipients may own their Compactor provided that the Service Recipient is completely
18 responsible for its proper maintenance and such Compactor shall be of a type that can be
19 serviced by the CONTRACTOR'S equipment.

20 9.04.3 Green Waste/Organic Waste - Improper Procedure. The
21 CONTRACTOR shall not be required to Collect Green Waste/Organic Waste if the Service
22 Recipient does not segregate the Green Waste/Organic Waste from Garbage. In the event the
23 Green Waste/Organic Waste and Garbage are commingled to the extent that they cannot easily
24 be separated by the CONTRACTOR or the nature of the Garbage renders the entire Green
25 Waste/Organic Waste Cart or Bin contaminated, the CONTRACTOR will leave the Green
26 Waste/Organic Waste Cart or Bin un-emptied along with a Non-Collection Notice which contains
27 instructions on the proper procedures for setting out Green Waste/Organic Waste. Upon
28 notification from the City Representative, CONTRACTOR shall Collect the contaminated Green
29 Waste/Organic Waste as part of the next regularly scheduled Commercial Garbage Collection
30 and dispose of it at the Disposal Facility.

31 9.04.4 Additional Organic Waste Carts or Bins. CONTRACTOR shall provide
32 an appropriate number of additional Organic Waste Carts and Bins to Service Recipients within
33 five (5) days of request at no additional cost provided that additional carts and bins are used by
34 Commercial Service Recipients for the purposes of setting out additional Organic Waste for
35 regular weekly Commercial Organic Waste Collection Service.

36 9.04.5 Green Waste/Organic Waste Facility. All Green Waste/Organic
37 Waste collected as a result of performing Commercial Collection Services shall be delivered to
38 the Green Waste/Organic Waste Facility. Failure to comply with this provision shall result in the
39 levy of an administrative charge as specified in this Agreement and may result in the
40 CONTRACTOR being in default under this Agreement.

41 9.04.6 Green Waste/Organic Waste - Changes to Work. Should changes in law
42 arise that necessitate any additions or deletions to the work described herein including the types
43 of items included as Green Waste/Organic Waste, the parties shall negotiate any necessary
44 cost changes and shall enter into an Agreement amendment covering such modifications to the
45 work to be performed and the compensation to be paid before undertaking any changes or
46 revisions to such work.

1 9.05 Commercial Debris Box Service. Upon request of Commercial Service Unit,
2 CONTRACTOR shall provide a Commercial Debris Box Service on a temporary or permanent
3 basis.

4 9.05.1 Debris Boxes shall be transported by CONTRACTOR to an approved
5 processing facility as selected by CONTRACTOR to achieve maximum diversion.

6 9.05.2 Charges for Debris Boxes shall be in accordance with **Exhibit 1c** of this
7 Agreement.

8 9.05.3 The CONTRACTOR shall provide Commercial Debris Box Collection
9 Services with as little disturbance as possible and shall leave any Debris Box containers in an
10 upright position at the same point it was collected without obstructing alleys, roadways,
11 driveways, sidewalks, or mail boxes. CONTRACTOR may not place a Debris Box container in
12 any public right-of way without the prior written approval by the CITY.

13 9.05.4 CONTRACTOR shall remove any and all graffiti within 24 hours of being
14 identified by the CONTRACTOR or City Representative. CONTRACTOR shall not deliver a
15 Debris Box container without CONTRACTOR information or with any graffiti visible on the
16 Debris Box container.

17 ARTICLE 10. CITY Collection Services

18 10.01 CITY Collection Services. These services will be governed by the following
19 terms and conditions:

20 10.01.1 Conditions of Service. The CONTRACTOR shall provide City
21 Garbage Collection Service, City Recycling Service, and City Green Waste/Organic Waste
22 Collection Service to all City Service Units as set forth in **Exhibits 3** and **6** where the carts and
23 bins are accessible as set forth in Section 10.01.3. The City reserves the right to amend the
24 listing of facilities in **Exhibits 3** and **6** and to request a specific number and type of containers at
25 each facility as the locations and needs of CITY facilities change from time to time that are
26 mutually agreed upon. CONTRACTOR considers providing City Collection Services as
27 corporate good will and shall not charge for City Collection Services.

28 10.01.1.1 Corporation Yard. In addition to the services identified in
29 **Exhibits 3** and **6**, the CONTRACTOR shall also service three (3) Debris Boxes located at the
30 CITY Corporation Yard, which CONTRACTOR shall pick up for disposal as requested by the
31 CITY as specified in **Exhibit 3**.

32 10.01.1.1.1. The CONTRACTOR agrees to provide Recycling
33 Bins for the Collection of Recyclable Materials at the CITY Corporation Yard. The
34 CONTRACTOR will provide as needed Collection Service to such bins and site clean-up as
35 necessary and as caused by CONTRACTOR.

36 10.01.1.1.2. The CONTRACTOR agrees to provide Green
37 Waste/Organic Waste Bins for the Collection of Green Waste/Organic Material at the CITY
38 Corporation Yard. The CONTRACTOR will provide as needed Collection Service to such bins
39 and site clean-up as necessary if CONTRACTOR is responsible for necessary clean-up.

40 10.01.2 Frequency of Service. Each service shall be provided at least
41 once every week on a scheduled route basis. However, in those instances where the scheduled
42 Collection day falls on a holiday as set forth in Section 3.09 herein, the Collection day may be
43 adjusted in a manner agreed to between the Service Recipient and the CONTRACTOR as long

1 as service is received a minimum of one (1) time per week. The size of the cart or bin and the
2 frequency (above the minimum) of Collection shall be determined between the CITY and the
3 CONTRACTOR. Green Waste collected at the Corporation Yard shall be collected at least one
4 time per month and adjusted seasonally to accommodate fluctuations in the amount of Green
5 Waste generated.

6 10.01.3 Accessibility. CONTRACTOR shall Collect all carts and bins that
7 are readily accessible to the CONTRACTOR'S crew and vehicles and not blocked. However,
8 CONTRACTOR shall provide "push services" as necessary during the provision of CITY
9 Collection Services as long as they comply with CONTRACTOR'S safety policies.

10 10.01.3.1 The CONTRACTOR will notify the City Representative
11 daily, by fax and e-mail, of all situations that prevent or hinder Collection from any CITY Service
12 Unit, unless otherwise directed by CITY.

13 10.02 City Code Enforcement Clean-Up Services.

14 10.02.1 CONTRACTOR, in response to the request of the City
15 Representative, shall within twenty-four (24) hours provide for temporary clean-up programs in
16 the Service Area by providing Debris Boxes as requested, but not exceeding an equivalent of
17 four hundred eighty (480) cubic yards per year. City crews will load materials into the
18 CONTRACTOR provided Debris Boxes. Additional services may be provided if mutually agreed
19 upon by CONTRACTOR and CITY. CONTRACTOR shall transport and deliver the collected
20 materials to the Disposal Facility, the Materials Recovery Facility, or such other facility as is
21 appropriate for the disposition of the materials and approved by the City Representative.

22 10.02.2 CONTRACTOR may provide for the Collection of materials at a
23 City Code Enforcement Clean-up Service event in a Collection vehicle, cart, bin or a Debris Box.
24 Each Agreement Year, CONTRACTOR shall, at no charge to the CITY, provide for a maximum
25 of four hundred (400) cubic yards of Collection from CITY Code Enforcement Clean-up
26 Services. CONTRACTOR shall be entitled to charge the CITY for amounts that exceed 400
27 cubic yards per Agreement Year in accordance with the rates specified in **Exhibit 1**.

28 10.03 Special Event Collection Service. CONTRACTOR shall provide City Garbage
29 Collection Service and City Recycling Service at CITY-sponsored events as requested by CITY.
30 Such services shall be provided in such a manner that all Garbage and recycling needs of the
31 event are adequately and properly provided for by CONTRACTOR at no cost of any kind to the
32 CITY. Special events are set forth in **Exhibits 2 and 5**, which is attached to and included in this
33 Agreement.

34 10.04 Abandoned Waste. CONTRACTOR shall direct its Collection vehicle drivers to
35 note (i) the addresses of any premises at which the driver observes that Garbage, Recyclable
36 Material, and/or Green Waste/Organic Waste is accumulating; and (ii) the address, or other
37 location description, at which Garbage, Recyclable Material, and/or Green Waste/Organic
38 Waste has been dumped in an apparently unauthorized manner. CONTRACTOR shall deliver
39 the address or description to CITY within three (3) Work Days of such observation.

40 10.05 Compost Delivery. Upon request by the City Representative, CONTRACTOR
41 shall provide premium quality compost materials delivered to locations and in amounts as
42 requested by the City Representative, provided that the total amount during any single
43 Agreement Year does not exceed three-hundred sixty (360) cubic yards. Such delivery of
44 compost shall be made within seventy-two (72) hours upon request by the City Representative.

ARTICLE 12. Street Sweeping Services

12.01 Street Sweeping Services. Beginning July 1, 2011, and continuing until the expiration or termination of this Agreement, CONTRACTOR shall provide Street Sweeping Services in accordance with the terms and conditions of this Agreement.

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

12.03 Water. CONTRACTOR shall obtain water from City owned hydrants for the water necessary in the street sweeping operation, and report the total gallons used per month to the City Representative. The proper volume and pressure shall be supplied by the sweeper at all times for adequate dust control during the sweeping operation. To the extent possible, CONTRACTOR shall use reclaimed or recycled water due to increased availability of reclaimed water.

12.04 Sweeper Speed. CONTRACTOR shall operate the sweepers at a speed of not more than six (6) miles per hour when sweeping or when the sweeper brooms are down, unless CONTRACTOR can demonstrate that the sweeper can operate efficiently and safely at a higher speed. CITY will use industry standards, Environmental Protection Agency information, and the sweeper manufacturer's recommendation on the speed of sweepers when considering speeds greater than six (6) miles per hour.

12.05 Width of Sweeper Path. CONTRACTOR shall sweep a path, with all brooms down, with a width of not less than eight (8) feet unless parked vehicles, structures, or other objects prohibit the safe sweeping of this path width. The path shall begin at the face of the curb, and include the flow line of the gutter. Unless blocked by parked cars, Garbage Carts, Recycling Carts, or Green Waste/Organic Waste Carts the face of the curb and gutter shall always be included within the sweeper path. On those residential streets with no curb, the width of the sweeper path shall be not less than eight (8) feet measured from the edge of the pavement toward the center of the street.

12.06 Frequency and Day of Service.

12.06.1 Residential Streets. CONTRACTOR shall provide Street Sweeping Service for each curb mile of residential streets in the CITY once monthly on a scheduled route basis. However, in those instances where the scheduled Street Sweeping Service day falls on a holiday, CONTRACTOR shall adjust the route schedule as set forth in Article 3.09.

12.06.2 Major Arterial Streets. CONTRACTOR shall provide Street Sweeping Service for each curb mile of major arterial streets in the CITY once per week on a scheduled route basis. However, in those instances where the scheduled Street Sweeping Service day falls on a holiday, CONTRACTOR shall adjust the route schedule as set forth in Article 3.09.

12.06.3 Downtown Area Streets. CONTRACTOR shall provide Street Sweeping Service for each curb mile of the downtown area streets in the CITY twice per week on a scheduled route basis. However, in those instances where the scheduled Street Sweeping Service day falls on a Holiday, CONTRACTOR shall adjust the route schedule as set forth in Article 3.09.

1 12.06.4 Industrial Park Streets. CONTRACTOR shall provide Street Sweeping
2 Service for each curb mile of the industrial park streets in the CITY once monthly on a
3 scheduled route basis. However, in those instances where the scheduled Street Sweeping
4 Service day falls on a Holiday, CONTRACTOR shall adjust the route schedule as set forth in
5 Article 3.09.

6 12.06.5 City owned Parks Parking Lots. CONTRACTOR shall provide Street
7 Sweeping Service for each CITY owned parks parking lot in the CITY once monthly on a
8 scheduled route basis. Parks parking lots shall be swept on the same day of the month that
9 routine sweeping of the adjoining residential neighborhood takes place. However, in those
10 instances where the scheduled Street Sweeping Service day falls on a holiday, CONTRACTOR
11 shall adjust the route schedule as set forth in Article 3.09.

12 12.07 Hours of Service.

13 12.07.1 Residential Streets & Parks Parking Lots. CONTRACTOR shall provide
14 Street Sweeping Service on residential streets & parks parking lots commencing no earlier than
15 6:00 a.m. and terminating no later than 7:00 p.m., Monday through Friday with no service on
16 Saturday (except for holiday service as set forth in Article 3.09 of this Agreement in which case
17 normal Collection hours may be utilized) or Sunday. The hours, days, or both of service may be
18 extended due to extraordinary circumstances or conditions with the prior verbal consent of the
19 City Representative. Sweeping in residential areas shall be coordinated with Collection Services
20 to ensure that sweeping occurs after Collection of all Carts has been completed on a specific
21 street.

22 12.07.2 Major Arterial Streets. CONTRACTOR shall provide Street Sweeping
23 Service on major arterial streets commencing no earlier than 8:00 p.m. and terminating no later
24 than 5:00 a.m., Monday through Friday with no service on Saturday (except for holiday service
25 as set forth in Article 3.09 of this Agreement in which case normal Collection hours may be
26 utilized or as set forth in 12.08 hereof) or Sunday. The hours, days, or both of service may be
27 extended due to extraordinary circumstances or conditions with the prior verbal consent of the
28 City Representative.

29 12.07.3 Downtown Area Streets. CONTRACTOR shall provide Street Sweeping
30 Service on downtown area streets commencing no earlier than 12:00 a.m. and terminating no
31 later than 6:00 a.m., Monday through Friday with no service on Saturday (except for holiday
32 service as set forth in Article 3.09 of this Agreement in which case normal Collection hours may
33 be utilized or as set forth in 12.08 hereof) or Sunday. The hours, days, or both of service may be
34 extended due to extraordinary circumstances or conditions with the prior verbal consent of the
35 City Representative.

36 12.07.4 Industrial Park Streets. CONTRACTOR shall provide Street Sweeping
37 Service on the industrial park streets commencing no earlier than 6:00 a.m. and terminating no
38 later than 7:00 p.m., Monday through Friday with no service on Saturday (except for holiday
39 service as set forth in Article 3.09 of this Agreement in which case normal Collection hours may
40 be utilized or as set forth in 12.08 hereof) or Sunday. The hours, days, or both of service may be
41 extended due to extraordinary circumstances or conditions with the prior verbal consent of the
42 City Representative.

43 12.08 Street Changes. CITY and CONTRACTOR acknowledge that during the term of
44 this Agreement it may be necessary or desirable to add or delete City Streets for which
45 CONTRACTOR will provide Street Sweeping Service. CITY will provide notification of changes

1 to CONTRACTOR through the customer service system. Conditions which may cause the City
2 Representative to order a street or an area to be bypassed temporarily include the following:

3 12.08.1 Construction or development on or along a street.

4 12.08.2 Pavement maintenance activities, including the chip seal program or the
5 slurry seal program.

6 12.08.3 Inclement weather when running water is in the gutter or street such that
7 sweeping is ineffective.

8 12.08.4 Special sweeping on alternative schedule.

9 12.08.5 Consistent non-compliance of citizens to remove parked cars during
10 sweep days.

11 12.08.6 Other legitimate reasons that make sweeping impractical as determined
12 by the City Representative.

13 12.09 Street Additions. As new streets are constructed and accepted by CITY, CITY
14 may, at CITY'S sole option, designate such streets as part of the Service Area for the purposes
15 of Street Sweeping Service. If the City Representative designates such streets as part of the
16 Service Area CONTRACTOR shall provide Street Sweeping Service on such streets under the
17 terms and conditions of this Agreement within fifteen (15) Work Days of receipt of notice from
18 the City Representative to begin service.

19 12.10 Street Deletions. CITY may require some City Streets to be temporarily or
20 permanently removed from the list of scheduled streets for which CONTRACTOR provides
21 Street Sweeping Service under this Agreement. CONTRACTOR shall immediately cease
22 providing Street Sweeping Service to any City Street upon receipt of notice from the City
23 Representative to stop such service. When a City Street has been temporarily removed from the
24 list of scheduled streets, CONTRACTOR shall resume Street Sweeping Service on such street
25 in the next regularly scheduled cycle following notification from the City Representative to
26 resume service.

27 12.11 Revised Maps. CONTRACTOR shall revise the Street Sweeping Service route
28 maps to show the addition or deletion of City Streets as provided above and shall provide such
29 revised maps to the City Representative as requested. The maps shall be provided in a format
30 that can be posted to the CITY website.

31 12.12 Temporary Changes in Sweeping Schedule. In the event that the City
32 Representative notifies CONTRACTOR not to sweep on a temporary basis, CONTRACTOR
33 shall not be paid for the equivalent Curb Miles and no liquidated damages will be assessed for
34 failure to sweep such streets. The City Representative shall notify CONTRACTOR of the
35 temporary suspension of service at least one day prior to the scheduled sweep, except that in
36 the case where the reason for not performing service is because of inclement weather, the City
37 Representative may notify CONTRACTOR at any time.

38 12.13 Parking Restrictions. The City shall also notify CONTRACTOR of any streets
39 when permit parking may impact scheduled Street Sweeping Service. CONTRACTOR may be
40 required to adjust sweeping schedule to sweep prior to the parking permit hours restrictions.

41 12.14 Adverse Weather Conditions. Because of varying rain conditions throughout the
42 CITY, CONTRACTOR may verbally request permission from the City Representative to cancel
43 sweeping during heavy and persistent rainstorms within the Service Area. CONTRACTOR may
44 cancel sweeping only with the prior consent of the City Representative.

1 12.15 Hazardous Waste. CONTRACTOR shall not be required to remove any
2 Hazardous Waste from the street surface. If in the course of performing Street Sweeping
3 Services, any suspected Hazardous Wastes are encountered, CONTRACTOR shall
4 immediately report the location to the Benicia Fire Department or any other responsible agency
5 and to the City Representative.

6 12.16 Disposal of Sweep Waste. CONTRACTOR shall transport and deliver to the
7 CITY Maintenance Services Center all Sweep Waste collected as a result of performing Street
8 Sweeping Services. Debris will be deposited in Debris Boxes located in the CITY Maintenance
9 Services Center.

10 12.17 Spillage. During hauling, all Sweep Waste shall be contained, covered or
11 enclosed so that leaking, spilling and blowing of the Sweep Waste is prevented.
12 CONTRACTOR shall be responsible for the immediate cleanup of any spillage caused by
13 CONTRACTOR.

14 12.18 Street Sweeping Service Routes. Within thirty (30) days upon execution of
15 Agreement, CITY shall provide CONTRACTOR with a street sweeping database for use in
16 developing routes and maps. CONTRACTOR shall develop the routes and maps using this
17 data. Not less than forty-five (45) days prior to commencement of Street Sweeping Services,
18 CONTRACTOR shall submit to the City Representative, Service Area maps, precisely defining
19 the Sweeper Routes for review and approval by the City Representative. The route maps shall
20 include the days of the month sweeping shall occur, the sweeping schedules in adjacent areas,
21 the portions of the CITY to be swept, the start and finish of each route, and any special needs
22 such as early starts, and late finishes. The City Representative may provide written comments
23 on the preliminary maps to CONTRACTOR no later than ten (10) Work Days after receipt of the
24 maps from CONTRACTOR. CONTRACTOR shall revise the maps to reflect such comments
25 and return them to the City Representative within ten (10) Work Days after receipt of the City
26 Representative's comments for CITY corroboration. Upon approval by the City Representative
27 of the final Sweeper Route maps, CONTRACTOR shall develop and maintain the Sweeping
28 Routes on a computerized mapping system that is compatible with CITY'S mapping system to
29 the extent possible. Street sweeping maps provided to the CITY shall be in a format that is
30 suitable for posting to the CITY website.

31 12.19 Changes in maps due to addition and deletion of certain City Streets shall be
32 provided by CITY, and CONTRACTOR shall update the maps in CONTRACTOR'S system
33 every month. Such changes shall also be reflected in CONTRACTOR'S printed route maps.

34 12.20 Service Route Changes. CONTRACTOR shall submit to the City
35 Representative, in writing, any proposed route change (including maps thereof) not less than
36 forty-five (45) calendar days prior to the proposed date of implementation. The City
37 Representative may provide written comments to CONTRACTOR on such proposed change no
38 later than ten (10) Work Days after receipt of the proposal from CONTRACTOR, and
39 CONTRACTOR shall revise the routes to reflect such comments and return them to the City
40 Representative within ten (10) Work Days of receipt of such comments, for CITY corroboration.
41 CONTRACTOR shall not implement any route changes without the prior approval of the City
42 Representative. If the approved route change will change the day on which Street Sweeping
43 Service will occur, CONTRACTOR shall notify the affected Service Recipients of route changes
44 not less than thirty (30) Work Days before the proposed date of implementation in a manner
45 approved by the City Representative.

46 12.21 Other CITY Street Sweeping Service. If during the term of this Agreement,
47 circumstances exist which require work associated with the Street Sweeping Service program

1 LNG, bio-diesel or hybrid electric for all its support vehicles as implemented in accordance to
2 **Exhibit 10.**

3 13.04 Global Positioning Systems (GPS). CONTRACTOR shall provide all route
4 Collection vehicles equipped with fully functioning on-board GPS with direct and real-time
5 linkages to CONTRACTOR's dispatch system.

6 13.05 Vehicle Noise Level. All Collection operations shall be conducted as quietly as
7 possible and must comply with U.S. EPA noise emission regulations currently codified at 40
8 CFR Part 205, and other applicable State, County, and City noise control regulations.

9 13.06 Collection Vehicle Size Limitations. SFD Residential Collection vehicles must not
10 exceed 18,000 pounds per axel, must not exceed 52,000 GVWR.

11 13.07 Safety Equipment. All Collection equipment used by CONTRACTOR shall have
12 appropriate safety markings including, but not limited to, highway lighting, flashing and warning
13 lights, clearance lights, and warning flags. All such safety markings shall be subject to the
14 approval of the CITY and shall be in accordance with the requirements of the California Vehicle
15 Code, as may be amended from time to time. All Collection vehicles shall be equipped with
16 audible back-up warning devices and back-up warning devices.

17 13.08 Vehicle Signage and Painting. Collection vehicles shall have signage in letters of
18 contrasting color, at least six (6) inches high, on each side and the rear of each vehicle that
19 clearly provides the CONTRACTOR'S name, the CONTRACTOR'S customer service telephone
20 number, and the number of the vehicle. No advertising shall be permitted other than the name
21 of the CONTRACTOR except promotional advertisement of the Recyclable Materials, Green
22 Waste/Organic Waste programs and clean air vehicle signage. CONTRACTOR shall repaint all
23 vehicles (including vehicles striping) during the term of this Agreement on a frequency as
24 necessary to maintain a positive public image as reasonably determined by the City
25 Representative.

26 13.09 Vehicle Maintenance. CONTRACTOR shall maintain Collection vehicles in a
27 clean condition and in good repair at all times and ensure that no collected materials, oil,
28 grease, or other substances will blow, fall out, escape or leak out of the vehicle, with the
29 exceptions of vehicle emission. All parts and systems of the Collection vehicles shall operate
30 properly and be maintained in a condition satisfactory to CITY. CONTRACTOR shall wash all
31 Collection vehicles at least once a week.

32 13.10 Maintenance Log. CONTRACTOR shall maintain a maintenance log for all
33 Collection vehicles. The log shall at all times be accessible to CITY by physical inspection upon
34 request of City Representative, and shall show, at a minimum, each vehicle's CONTRACTOR
35 assigned identification number, date purchased or initial lease, dates of performance of routine
36 maintenance, dates of performance of any additional maintenance, and description of additional
37 maintenance performed.

38 13.11 Equipment Inventory. Within thirty (30) days upon execution of Agreement, and
39 on July 1st annually thereafter, CONTRACTOR shall provide to CITY an inventory of collection
40 vehicles and major equipment used by CONTRACTOR for collection or transportation and
41 performance of services under this Agreement. The inventory shall indicate each collection
42 vehicle by CONTRACTOR assigned identification number, DMV license number, the age of the
43 chassis and body, type of fuel used, the type and capacity of each vehicle, the number of
44 vehicles by type, the date of acquisition, the decibel rating and the maintenance status.
45 CONTRACTOR shall submit to the City Representative, either by Fax or e-mail, an updated
46 inventory annually to the CITY or more often at the request of the City Representative. Each

1 vehicle inventory shall be accompanied by a certification signed by CONTRACTOR that all
2 collection vehicles meet the requirements of this Agreement.

3 13.12 Reserve Equipment. The CONTRACTOR shall have available to it, at all times,
4 reserve Collection equipment which can be put into service and operation within one (1) hour of
5 any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment
6 used by the CONTRACTOR to perform the contractual duties.

7 13.12.1 The CONTRACTOR may exceed the Collection vehicle size limitation for
8 a limited time period due to extraordinary circumstances or conditions with the prior written
9 consent of the City Representative. The limited time period shall not exceed 120 days.

10 ARTICLE 14. CONTRACTOR'S Office

11 14.01 CONTRACTOR'S Office. The CONTRACTOR shall maintain an office within the
12 CITY that Service Recipients can pay their bills locally. CONTRACTOR shall operate and
13 maintain its customer service function at CONTRACTOR's office located in Pacheco, CA, and
14 CONTRACTOR shall assign a local operations supervisor to oversee the services covered
15 under this Agreement that is staffed from CONTRACTOR's Pacheco, CA office. Customers
16 shall be provided a toll-free phone number to a customer service department that is staffed by
17 trained and experienced customer service representatives. Such office shall be equipped with
18 sufficient telephones that all Collection Service related calls received during normal business
19 hours are answered by an employee, and shall have responsible persons in charge during
20 Collection hours and shall be open during such normal business hours, 8:00 a.m. to 5:00 p.m.
21 on regularly scheduled Work Days (Monday through Friday) The CONTRACTOR shall provide
22 either a telephone answering service or mechanical device to receive Service Recipient
23 inquiries during those times when the office is closed. Calls received after normal business
24 hours shall be addressed the next Work Day morning.

25 14.01.1 Emergency Contact. The CONTRACTOR shall provide the City
26 Representative with an emergency phone number where the CONTRACTOR can be reached
27 outside of the required office hours.

28 14.01.2 Multilingual/TDD Service. CONTRACTOR shall at all times
29 maintain the capability of responding to telephone calls in English and such other languages as
30 CITY may direct. CONTRACTOR shall at all times maintain the capability of responding to
31 telephone calls through Telecommunications Device for the Deaf (TDD) Services.

32 14.01.3 Service Recipient Calls. During office hours, CONTRACTOR
33 shall maintain a telephone answering system capable of accepting at least ten (10) incoming
34 calls at one (1) time. CONTRACTOR shall record all calls including any inquiries, service
35 requests and complaints into a customer service log.

36 14.01.4 Response to Calls. All incoming calls will be answered within five
37 (5) rings. Any call "on-hold" in excess of one and one half (1.5) minutes shall have the option to
38 remain "on-hold" or to be switched to a message center where Service Recipient can leave a
39 message. CONTRACTOR'S customer service representative shall return Service Recipient
40 calls. For all messages left before 3:00 p.m., all "call backs" shall be attempted a minimum of
41 one time prior to 5:00 p.m. on the day of the call. For messages left after 3:00 p.m., all "call
42 backs" shall be attempted a minimum of one time prior to noon the next Work Day.

43 14.01.5 Website. CONTRACTOR shall develop and maintain a state-of-
44 the-art website dedicated to services provided in the CITY that is accessible by the public. The

1 website shall include answers to frequently asked questions, rates for Collection Services,
2 Recyclable Materials and Green Waste/Organic Waste materials specifications, Collection
3 Service schedules and street sweeping maps, and other related topics. CONTRACTOR shall
4 arrange for the CITY'S website to include an e-mail link to CONTRACTOR and a link to
5 CONTRACTOR'S website. CONTRACTOR shall provide the means for Service Recipients to
6 pay bills online through E-Pay in accordance with Section 4.01.6. The CONTRACTOR'S
7 website shall provide the public the ability to e-mail complaints to CONTRACTOR and request
8 services or service changes. CONTRACTOR's website shall also promote reuse and recycling,
9 graphics and statistic illustrating the City progress toward becoming a Zero Waste Community,
10 resources the community can use to support Zero Waste and Sustainability efforts, other CITY's
11 environmental programs, and other materials as requested by the CITY. The CITY shall review
12 and approve CONTRACTOR'S website. CONTRACTOR shall provide the CITY with electronic
13 copy of CONTRACTOR'S website materials that shall be posted to the CITY'S website.

14 14.02 CONTRACTOR'S Customer Service. CONTRACTOR shall maintain staff, office
15 hours and after hours phone answering capabilities in accordance with Section 14.01. All
16 service inquiries and complaints shall be directed to the CONTRACTOR. A representative of
17 the CONTRACTOR shall be available to receive the complaints during normal business hours.
18 All service complaints will be handled by the CONTRACTOR in a prompt, courteous, and
19 efficient manner. In the case of a dispute between the CONTRACTOR and a Service Recipient,
20 the matter will be reviewed and a decision made by the City Representative.

21 14.02.1 The CONTRACTOR will utilize the customer service log to
22 maintain a record of all inquiries and complaints in a manner prescribed by the CITY.

23 14.02.2 For those complaints related to missed Collections that are
24 received by noon on a Work Day, the CONTRACTOR will return to the Service Unit address
25 and Collect the missed carts or bins before leaving the Service Area for the day. For those
26 complaints related to missed Collections that are received after 12:01 p.m. on a Work Day, the
27 CONTRACTOR shall have until the end of the following Work Day to resolve the complaint. For
28 those complaints related to repair or replacement of carts or bins, the appropriate Articles of this
29 Agreement shall apply.

30 14.02.3 CONTRACTOR agrees that it is in the best interest of the CITY
31 that all Garbage and Recyclable Materials be collected on the scheduled Collection day.
32 Accordingly, missed Collections will normally be collected as set forth herein regardless of the
33 reason that the Collection was missed. However, in the event a Service Recipient reports
34 missed Collection Service more than two (2) times in any consecutive two (2) month period the
35 City Representative will work with the CONTRACTOR to determine an appropriate resolution to
36 that situation. In the event the CONTRACTOR believes any complaint to be without merit,
37 CONTRACTOR shall notify the City Representative, either by fax or e-mail. The City
38 Representative will investigate all disputed complaints and render a decision.

39 ARTICLE 15. Other Services

40 15.01 Public Outreach and Education Services. CONTRACTOR, at its own expense,
41 shall prepare, submit and implement an annual (Agreement Year) Public Education and
42 Outreach Program. The proposed action plan must be submitted annually for CITY approval no
43 later than May 1st for the next Agreement Year. The program must include a minimum of four
44 (4) campaigns per year, designed to increase diversion and resident participation, and two (2)
45 campaigns per year designed to increase diversion and participation at the City's Public
46 Schools. Campaigns should target certain Recyclable Materials or "problem" areas of the

1 CONTRACTOR'S Service Area where improvements can be maximized. Targets of outreach
2 should be based on local trends and recycling patterns based on information obtained by both
3 the City Representative and CONTRACTOR staff. The CONTRACTOR shall provide space in
4 CONTRACTOR'S public outreach materials, such as mailers, flyers and newsletters, for the
5 CITY to include announcements, community information, articles, and photographs. The
6 Public School campaigns shall correspond with the two (2) semesters of the school year (fall
7 and spring) and should target student, faculty and staff participation in the diversion of
8 Recyclable Materials and Green Waste/Organic Waste.

9 15.02 Recycling Coordinator. CONTRACTOR will provide for the equivalent 1/2 time
10 Recycling Coordinator dedicated to the CITY. CONTRACTOR may use an Approved
11 Subcontractors as listed in **Exhibit 5** to perform some or all the duties normally assigned to the
12 Recycling Coordinator.

13 15.03 Annual Collection Service Notice. Each Agreement Year during the term of this
14 Agreement, the CONTRACTOR shall publish and distribute separate notices to all SFD Service
15 Units regarding the SFD Collection Service programs, to all MFD Service Units regarding MFD
16 Collection Service programs and to all Commercial Service Units regarding Commercial
17 Collection Service programs. To the extent appropriate, based on the category of the Service
18 Recipient receiving the notice, it shall contain at a minimum: definitions of the materials to be
19 collected, procedures for setting out the materials, Collection and disposal options for
20 unacceptable materials, and the CONTRACTOR customer service phone number. The notice
21 shall be provided in English, and other languages as directed by the CITY, and shall be
22 distributed by the CONTRACTOR no later than November 1 of each Agreement Year.

23 15.04 Additional Programs and Services. CONTRACTOR shall provide additional
24 services and programs as requested by CITY, and as identified in **Exhibit 9**, at a price to be
25 mutually agreed upon between the CONTRACTOR and the City Representative. In the event
26 the CONTRACTOR and the City Representative cannot reach a mutually agreed upon price for
27 the requested service or program, CITY shall have the right to procure the service of other
28 vendors or contractors to provide the requested service. Services shall also include:

29 15.04.1 Operating the car batteries, oil and paint recycling drop-off center
30 every Saturday except if a holiday falls on a Saturday. Other items collected include household
31 batteries and fluorescent tubes.

32 15.05 News Media Relations. CONTRACTOR shall notify the City Representative by
33 Fax, e-mail or phone of all requests for news media interviews related to the Collection Services
34 program within twenty-four (24) hours of CONTRACTOR'S receipt of the request. Before
35 responding to any inquiries involving controversial issues or any issues likely to affect
36 participation or Service Recipient perception of services, CONTRACTOR will discuss
37 CONTRACTOR'S proposed response with the City Representative.

38 15.05.1 Copies of draft news releases or proposed trade journal articles
39 shall be submitted to CITY for prior review and approval at least five (5) Work Days in advance
40 of release, except where CONTRACTOR is required by any law or regulation to submit
41 materials to any regulatory agency in a shorter period of time, in which case CONTRACTOR
42 shall submit such materials to CITY simultaneously with CONTRACTOR'S submittal to such
43 regulatory agency.

44 15.05.2 Copies of articles resulting from media interviews or news
45 releases shall be provided to the CITY within five (5) Work Days after publication.

1 15.06 Waste Generation and Characterization Studies. CONTRACTOR acknowledges
2 that CITY must perform Garbage generation and characterization studies periodically to comply
3 with AB 939 requirements. CONTRACTOR agrees to participate and cooperate with CITY and
4 its agents and to perform studies and data collection exercises, as needed, to determine
5 weights, volumes and composition of Garbage generated, disposed, transformed, diverted or
6 otherwise processed to comply with AB 939.

7 ARTICLE 16. Emergency Service Provisions

8 16.01 Emergency Services. In the event of a tornado, major storm, earthquake, fire,
9 natural disaster, or other such event, the City Representative shall grant the CONTRACTOR a
10 variance from regular routes and schedules. As soon as practicable after such event, the
11 CONTRACTOR shall advise the City Representative when it is anticipated that normal routes
12 and schedules can be resumed. The City Representative shall make an effort through the local
13 news media to inform the public when regular services may be resumed. The clean-up from
14 some events may require that the CONTRACTOR hire additional equipment, employ additional
15 personnel, or work existing personnel on overtime hours to clean debris resulting from the
16 event. The CONTRACTOR shall receive additional compensation, above the normal
17 compensation contained in this Agreement, to cover the costs of rental equipment, additional
18 personnel, overtime hours and other documented expenses based on the rates set forth in
19 **Exhibit 1** to this Agreement provided the CONTRACTOR has first secured written authorization
20 and approval from the CITY through the City Representative.

21 ARTICLE 17. Record Keeping & Reporting Requirements

22 17.01 Record Keeping.

23 17.01.1 Accounting Records. CONTRACTOR shall maintain full,
24 complete and separate financial, statistical and accounting records, pertaining to cash, billing,
25 and provisions of all Collection Services provided under this Agreement, prepared on an accrual
26 basis in accordance with generally accepted accounting principles. Such records shall be
27 subject to audit and inspection. Gross Receipts derived from provision of the Collection Services
28 shall be recorded as revenues in the accounts of the CONTRACTOR. These records shall be
29 separate and segregated from other records maintained by CONTRACTOR for the provision of
30 other services outside the scope of this Agreement as may be provided by CONTRACTOR.
31 CONTRACTOR shall maintain and preserve all cash, billing and disposal records for a period of
32 not less than five (5) years following the close of each of the CONTRACTOR'S fiscal years.

33 17.01.2 CONTRACTOR Payments to the City. CONTRACTOR shall
34 maintain records of all payments made to the CITY for all items listed in Section 4.02.

35 17.01.3 Tonnage Records. CONTRACTOR shall maintain records of the
36 quantities of (i) Garbage, Recyclable Material, and Green Waste/Organics Waste collected,
37 processed, Composted, and disposed under the terms of this Agreement, and (ii) Recyclable
38 Materials and Green Waste/Organic Waste, by material type, purchased, sold, donated or given
39 for no compensation, and residue disposed.

40 17.01.4 Records. CONTRACTOR shall maintain all other records
41 reasonably related to provision of Collection Services, whether or not specified in this Article 17
42 or elsewhere in the Agreement for a period of not less than five (5) years following the close of
43 each of the CONTRACTOR'S fiscal years.

1 17.02 Reporting Requirements. Quarterly reports shall be submitted to the City
2 Representative no later than the 20th of the month after the end of the reporting quarter and
3 annual reports shall be submitted to the City Representative no later than thirty (30) days after
4 the end of each preceding calendar year. Quarterly and annual reports shall be submitted in
5 hard copy, and shall be provided electronically via e-mail, or a compact disc using software
6 acceptable to the CITY. Reports shall be submitted in a format mutually agreed upon between
7 the CITY and CONTRACTOR.

8 17.02.1 Quarterly Reports. Quarterly reports to the CITY shall include:

9 17.02.1.1 Garbage Data. The number of SFD, MFD, City and
10 Commercial Service Units and the number of Garbage Bins, Carts, Debris Boxes and
11 Compactors by size and Service Unit type. A listing of the tonnage from all Collection Services,
12 including Large Item Collection Service, collected, diverted and disposed by the CONTRACTOR
13 at the Disposal Facility for the preceding quarter sorted between SFD, MFD, Commercial and
14 City Service Units. All tonnage data should be compared to the corresponding tonnage data
15 from the prior year comparable period.

16 17.02.1.2 Recycling Data. The number of gross tons collected by
17 material type for SFD, MFD, City and Commercial Recycling Service, including Recyclable
18 Materials collected as part of SFD and MFD Large Item Collection Service, for the preceding
19 quarter. Indicate, by material type (and grade where appropriate), quarterly total of Recyclable
20 Materials processed and sold including facility name and location, average price received per
21 Ton and total Recycling Revenue received for the quarter. Indicate any quantities, by material
22 type, donated or otherwise disbursed without compensation. Indicate quarterly totals and
23 location for residue disposed. All tonnage data should be compared to the corresponding
24 tonnage data from the prior year comparable period.

25 17.02.1.3 Green Waste/Organic Waste Data. The number of gross
26 tons collected for SFD, MFD, City and Commercial Green Waste/Organic Collection Service,
27 including Green Waste collected as part of SFD and MFD Large Item Collection Service, for the
28 preceding quarter. Indicate the number of Green Waste/Organic Waste Bins, Carts, Debris
29 Boxes, and Compactors distributed by size and Service Unit type. Indicate quarterly totals and
30 location for residue disposed. All tonnage data should be compared to the corresponding
31 tonnage data from the prior year comparable period.

32 17.02.1.4 Public Education and Information Activities.
33 CONTRACTOR shall report on all public education and information activities undertaken during
34 the period, including distribution of bill inserts, Collection notification tags, community
35 information and events, school visits, tours and other activities related to the provision of
36 Collection Services. This report shall discuss the impact of these activities on recycling and
37 Green Waste/Organic Waste program participation and provide details of events and activities
38 planned for the next period.

39 17.02.1.5 Processing and Marketing Data. Recycling and Green
40 Waste/Organic Waste processing and marketing issues or conditions occurring during the
41 previous quarter (such as participation, setouts, contamination, etc.) and possible solutions,
42 discussed separately for SFD, MFD, Commercial and CITY programs.

43 17.02.1.6 Recyclables Revenue. A summary of total Recyclables
44 Materials collected, net of residual, and the total revenue received by the CONTRACTOR for
45 the purchase of Recyclable Materials by third parties, net of any processing, residual disposal
46 costs, or transportation costs incurred by the CONTRACTOR.

- 1 17.02.1.7 Customer Service Data. A summary narrative of praises,
2 compliments, and problems encountered with Collection and processing activities and actions
3 taken. Indicate type and number of Non-Collection Notices left at Service Recipient locations.
4 Indicate instances of property damage or injury, significant changes in operation, market factors,
5 publicity conducted, need for publicity. A report shall be submitted with the number and type of
6 complaints, courtesy pickups and missed pickups.
- 7 17.02.1.8 Operational Problems and Actions Taken. Indicate
8 instances of property damage or injury, poaching or scavenging, significant changes in
9 operation, market factors, and publicity conducted and need for publicity. Include description of
10 Green Waste/Organic Waste or Recyclable Materials loads rejected, reason for rejection and
11 disposition of load after rejection.
- 12 17.02.1.9 Customer Base Data. CONTRACTOR shall provide,
13 customer census data consisting of the number of SFD, MFD, and Commercial Service Units
14 billed, and City Collection Services sorted by service type, container size, number of containers,
15 and frequency of Collection.
- 16 17.02.1.10 Summary of Historical and Proposed Activities.
17 CONTRACTOR shall provide a narrative of activities undertaken during the month and those
18 planned or proposed for the upcoming quarter.
- 19 17.02.1.11 Summary of CONTRACTOR Payments to the CITY. A
20 summary of all payments made to the City as specified in Section 4.03, for the reporting period.
- 21 17.02.1.12 Gross Receipts. A summary of the prior quarters' Gross
22 Receipts received broken down by SFD, MFD and Commercial Service Units.
- 23 17.02.2 Annual Reports. The annual report submitted to the CITY shall
24 include all quarterly reports in Articles 17.02.1.1 through 17.02.1.12 summarized by quarter and
25 averaged for the calendar year. For all annual reports beginning with the report for the second
26 Agreement Year, the CONTRACTOR shall also include a historical comparison of the last
27 calendar year and the average of all calendar years.
- 28 17.02.2.1 CONTRACTOR Payments to the CITY. A summary of all
29 payments made to the City for the prior year as specified in Section 4.02, for the reporting
30 period.
- 31 17.02.2.2 Gross Receipts. A summary of the prior year's Gross
32 Receipts received and franchisee fees paid broken down by SFD, MFD and Commercial
33 Service Units.
- 34 17.02.2.3 Account Data. Account data for SFD, MFD, Commercial
35 Service Units and City Service Units including the total number of accounts serviced, and the
36 number of accounts, account names and addresses of Collection locations per each service
37 category.
- 38 17.02.2.4 Equipment Inventory. Updated complete inventory of
39 Collection and major processing equipment including stationary, rolling stock and Collection
40 containers by type and size.
- 41 17.02.2.5 Public Education and Information Activities. Public
42 education and information activities undertaken during the year, including distribution of
43 newsletters, billing inserts, other notices, Collection notification tags, community information and
44 events, tours and other activities related to the provisions of services.

1 17.02.2.6 Summary of Historical and Proposed Activities.

2 CONTRACTOR shall provide a narrative of activities undertaken during the year and those
3 planned or proposed for the upcoming year. CONTRACTOR shall provide information
4 describing if the activity was undertaken in the previous Agreement Year or not and if not why it
5 was added. For those activities that are not being continued, CONTRACTOR shall describe the
6 reason the activity has been discontinued and the activity that is replacing it.

7 17.03 Additional Reporting. The CONTRACTOR shall furnish the CITY with any
8 additional reports as may reasonably be required, such reports to be prepared within a
9 reasonable time following the reporting period.

10 17.04 CONTRACTOR shall maintain any and all letters, books of account, invoices,
11 vouchers, canceled checks, and other records or documents evidencing or relating to charges
12 for services or expenditures and disbursements charged to Service Recipients for a minimum
13 period of five (5) years, or for any longer period required by law, from the date of final payment
14 to CONTRACTOR pursuant to this Agreement.

15 17.05 CONTRACTOR shall maintain all documents and records which demonstrate
16 performance under this Agreement for a minimum period of five (5) years, or for any longer
17 period required by law, from the date of termination or completion of this Agreement.

18 17.06 Any records or documents required to be maintained pursuant to this Agreement
19 shall be made available for inspection or audit, at any time during regular business hours, upon
20 written request by the City Representative, the City Attorney, City Auditor, City Administrator, or
21 a designated representative of any of these officers. Copies of such documents shall be
22 provided to CITY for inspection at the CITY offices when it is practical to do so. Otherwise,
23 unless an alternative site is mutually agreed upon, the records shall be available at
24 CONTRACTOR'S address indicated for receipt of notices in this Agreement.

25 17.07 Where CITY has reason to believe that such records or documents may be lost
26 or discarded due to the dissolution, disbandment or termination of CONTRACTOR'S business,
27 CITY may, by written request or demand of any of the above named officers, require that
28 custody of the records be given to CITY and that the records and documents be maintained in
29 City Hall. Access to such records and documents shall be granted to any party authorized by
30 CONTRACTOR, CONTRACTOR'S representatives, or CONTRACTOR'S successor-in-interest.

31 **ARTICLE 18. Nondiscrimination**

32 18.01 Nondiscrimination. In the performance of all work and services under this
33 Agreement, CONTRACTOR shall not discriminate against any person on the basis of such
34 person's race, sex, color, national origin, religion, marital status, age, disability or sexual
35 orientation. CONTRACTOR shall comply with all applicable local, state and federal laws and
36 regulations regarding nondiscrimination, including those prohibiting discrimination in
37 employment.

38 **ARTICLE 19. Quality of Performance of CONTRACTOR**

39 19.01 Intent. CONTRACTOR acknowledges and agrees that one of CITY'S primary
40 goals in entering into this Agreement is to ensure that the Collection Services are of the highest
41 caliber, that Service Recipient satisfaction remains at the highest level, that maximum diversion
42 levels are achieved, and that materials collected are put to the highest and best use to the
43 extent feasible.

1 19.02 Service Supervisor. CONTRACTOR has designated a supervisor to be in charge
 2 of the Collection Service within the Service Area. The supervisor shall be available to the City
 3 Representative through the use of a mobile telephone at all times that CONTRACTOR is
 4 providing Collection Services. In the event the supervisor is unavailable due to illness or
 5 vacation, CONTRACTOR shall designate an acceptable substitute who shall be available and
 6 who has the authority to act in the same capacity as the supervisor. The service supervisor
 7 shall provide the CITY with an emergency phone number where the supervisor can be reached
 8 outside of normal business hours.

9 19.03 Liquidated Damages. The parties further acknowledge that consistent and
 10 reliable Collection Service is of utmost importance to CITY and that CITY has considered and
 11 relied on CONTRACTOR'S representations as to its quality of service commitment in awarding
 12 the Agreement to it. The parties further recognize that some quantified standards of
 13 performance are necessary and appropriate to ensure consistent and reliable service and
 14 performance. The parties further recognize that if CONTRACTOR fails to achieve the
 15 performance standards, or fails to submit required documents in a timely manner, CITY, and
 16 CITY'S residents and businesses will suffer damages and that it is and will be impractical and
 17 extremely difficult to ascertain and determine the exact amount of damages. Therefore, without
 18 prejudice to CITY'S right to treat such non-performance as an event of default under Article 24,
 19 the parties agree that the liquidated damages amount defined in this Article represent
 20 reasonable estimates of the amount of such damages considering all of the circumstances
 21 existing on the effective date of this Agreement, including the relationship of the sums to the
 22 range of harm to CITY, Service Recipients and the community as a whole that reasonably could
 23 be anticipated and the anticipation that proof of actual damages would be costly or impractical.
 24 In placing their initials at the places provided, each party specifically confirms the accuracy of
 25 the statements made above and the fact that each party has had ample opportunity to consult
 26 with legal counsel and obtain an explanation of the liquidated damage provisions at the time that
 27 the Agreement was made.

28 CITY Initial Here _____ CONTRACTOR Initial Here _____

29 CONTRACTOR agrees to pay (as liquidated damages and not as penalty) the following
 30 amounts:

| LIQUIDATED DAMAGES | | |
|--------------------|---|---|
| Item | | Amount |
| a. | Failure or neglect to respond to each complaint by the close of the next working day. | \$100 per incident per Service Recipient. |
| b. | Failure to maintain equipment in a clean and sanitary manner. | \$100 per incident per day. |
| c. | Failure to have a vehicle operator properly licensed. | \$100 per incident per day. |
| d. | Failure to maintain office hours as required by this Agreement. | \$100 per incident per day. |
| e. | Failure to maintain or timely submit to CITY all documents and reports required under the provisions of this Agreement. | \$100 per incident per day. |

| LIQUIDATED DAMAGES | | |
|--------------------|--|--|
| Item | | Amount |
| f. | Failure to display CONTRACTOR'S name and customer service phone number on Collection vehicles. | \$100 per incident per day. |
| g. | Failure to collect a missed Collection by close of the next Work Day upon notice to CONTRACTOR. | \$100 per incident per day. |
| h. | Failure to repair or replace damaged carts or bins within the time required by this Agreement. | \$100 per incident per day. |
| i. | Failure to deliver or exchange carts or bins within the time required by this Agreement. | \$100 per incident per day. |
| j. | Failure to meet vehicle noise requirements. | \$100 per incident per day. |
| k. | Failure to maintain Collection hours as required by this Agreement. | \$250 per incident per day. |
| l. | Failure to offer and provide adequate capacity of Recyclable Materials and Green Waste/Organic Waste for MFD and Commercial Service Units. | \$250 per incident per day. |
| m. | Failure to have CONTRACTOR personnel in proper uniform. | \$250 per incident per day. |
| n. | Failure to repair damage to customer property caused by CONTRACTOR or its personnel. | \$500 per incident per location. |
| o. | Failure to repair damage to CITY property caused by CONTRACTOR or its personnel. | \$500 per incident. |
| p. | Failure to repair damage to City Streets directly caused by CONTRACTOR beyond normal operating wear and tear. | \$500 per incident and the actual cost of repair to CITY'S satisfaction—no cost to CITY. |
| q. | Failure to clean up spillage or litter caused by CONTRACTOR. | \$500 per incident per location. |
| r. | Failure to properly cover materials in Collection vehicles. | \$500 per incident. |
| s. | Changing residential Collection days without proper notification to the City Representative. | \$500 per incident per day. |
| t. | Commingling Garbage with Recyclable Materials. | \$500 per incident. |
| u. | Failure to provide adequate primary and alternate capacity to accept and process Recyclable Materials or Green Waste/Organic Waste. | \$500 per day. |

| LIQUIDATED DAMAGES | | |
|--------------------|--|--|
| Item | | Amount |
| v. | Disposal of Recyclable Materials or Green Waste/Organic Waste in the Disposal Facility without first obtaining the required permission of the CITY. | \$500 per load. |
| w. | Failure to deliver any collected materials to the CITY approved Disposal Facility, Materials Recovery Facility, or Green Waste/Organic Waste Processing Facility, as appropriate, except as otherwise expressly provided in this Agreement without first obtaining the required permission of the CITY. | \$5,000 each failure. |
| x. | Delivery to the Disposal Facility of any Garbage collected outside of the City boundaries of Benicia commingled with that collected as part of this Agreement without first obtaining the required permission of the CITY, or not having a CITY approved jurisdiction-specific tracking tonnage process. | \$1,000 each unauthorized delivery. |
| y. | Commingling of materials collected inside and outside the City of Benicia without first obtaining the required permission of the CITY, or not having a CITY approved jurisdiction-specific tracking tonnage process. | \$1,000 per incident. |
| z. | Failure to implement required diversion programs as required by this Agreement. | Denial of term extension to this Agreement per Article 2. |
| aa. | Failure to meet minimum annual Diversion Guarantee for two consecutive years. | May result in the denial of an extension to this Agreement. |
| ab. | Failure to display CONTRACTOR'S name and customer service phone number on street sweeping vehicles. | \$50.00 per incident per Work Day. |
| ac. | Failure or neglect to complete at least 90 percent of each route on the regular scheduled Street Sweeping Service Work Day. | \$250.00 for each route not completed. |
| ad. | Incomplete or improper sweeping of a street. | \$50.00 per block (i.e., a cul-de-sac or, for any through street, the part of the street between two consecutive cross streets). |
| ae. | Unapproved routing changes. | \$250.00 for each unapproved route change. |

1 19.04 Procedure for Assessment and Review of Liquidated Damages. Liquidated
2 damages will only be assessed after CONTRACTOR has been given the opportunity but failed
3 to rectify, in a timely manner, the breach as described in this Agreement. The City
4 Representative may assess liquidated damages pursuant to this Article 19 on a monthly basis.
5 At the end of each month during the term of this Agreement, the City Representative shall issue
6 a written notice to CONTRACTOR ("Notice of Assessment") of the liquidated damages
7 assessed and the basis for each assessment.

8 19.04.1 The assessment shall become final unless, within ten (10)
9 calendar days of the date of the notice of assessment, CONTRACTOR provides a written
10 request for a meeting with the City Representative to present evidence that the assessment
11 should not be made.

12 19.04.2 The City Representative shall schedule a meeting between
13 CONTRACTOR and the City Manager or the City Manager's designee as soon as reasonably
14 possible after timely receipt of CONTRACTOR'S request.

15 19.04.3 The City Manager or the City Manager's designee shall review
16 CONTRACTOR'S evidence and render a decision sustaining or reversing the liquidated
17 damages as soon as reasonably possible after the meeting. Written notice of the decision shall
18 be provided to CONTRACTOR.

19 19.04.4 In the event CONTRACTOR does not submit a written request for
20 a meeting within ten (10) calendar days of the date of the Notice of Assessment, the City
21 Manager's determination shall be final and CONTRACTOR shall submit payment to CITY no
22 later than that tenth (10th) day, or at the sole option of CITY, if monies are owed to
23 CONTRACTOR, CITY may deduct the liquidated damages from amounts otherwise due to
24 CONTRACTOR.

25 19.04.5 CITY'S assessment or collection of liquidated damages shall not
26 prevent CITY from exercising any other right or remedy, including the right to terminate this
27 Agreement, for CONTRACTOR'S failure to perform the work and services in the manner set
28 forth in this Agreement.

29 19.05 Lockouts. Because it is the intent of this Agreement that CONTRACTOR shall
30 consistently provide the highest level of services to the residents of Benicia, CONTRACTOR
31 shall never institute a lockout of any or all of its employees unless CONTRACTOR has
32 previously provided an alternate plan of continuing the highest level of services during the entire
33 possible period of such a lockout with ample fully trained substitutes for all such locked out
34 employees, and CITY has approved such alternate plan in writing prior to such lockout being
35 instituted by CONTRACTOR. In addition, CONTRACTOR shall fully defend, indemnify and hold
36 harmless CITY against anything whatsoever related to any such lockout as provided in Article
37 23 hereof, including but not limited to any claims, proceedings, or suits against CITY relating to
38 any such lockout. Compliance with this Section 19.05 shall in no way prevent the imposition of
39 liquidated damages pursuant to Sections 19.03 and 19.04 hereof if CONTRACTOR fails to meet
40 the standards or violates any provision as set forth in Section 19.03 a. through ae. hereof.

41 ARTICLE 20. Billing Audit and Performance Reviews

42 20.01 Billing Audit and Performance Review

43 20.01.1 Selection and Cost. The CITY may conduct one (1) billing audit
44 and performance review ("review") of the CONTRACTOR'S performance each five (5) years

1 during the term of this Agreement. The reviews will be performed by a qualified firm under
2 contract to the CITY. The CITY shall have the final responsibility for the selection of the firm but
3 shall seek and accept comments and recommendations from the CONTRACTOR. The
4 CONTRACTOR shall be responsible for the cost of the reviews up to a maximum of **Fifty**
5 **Thousand Dollars (\$50,000.00) for each review.**

6 20.01.2 Purpose. The review shall be designed to meet the following
7 objectives:

8 20.01.2.1 Verify that Service Recipient billing rates have been
9 properly calculated and they correspond to the level of service received by the Service
10 Recipient.

11 20.01.2.2 Verify that franchise fees, and other fees required under
12 this Agreement have been properly calculated and paid to the CITY.

13 20.01.2.3 Verify CONTRACTOR'S compliance with the reporting
14 requirements and performance standards of the Collection Service Agreement.

15 20.01.2.4 Verify the diversion percentages reported by the
16 CONTRACTOR.

17 20.01.3 CONTRACTOR'S Cooperation. CONTRACTOR shall cooperate
18 fully with the review and provide all requested data, including operational data, financial data
19 and other data requested by the CITY within thirty (30) Work Days. Failure of the
20 CONTRACTOR to cooperate or provide the requested documents in the required time shall be
21 considered an event of default.

22 20.02 City Requested Program Review. The CITY reserves the right to require the
23 CONTRACTOR to periodically conduct reviews of the SFD, MFD and Commercial Garbage,
24 Recyclable Materials, and Green Waste/Organic Waste Collection Service programs to assess
25 one or more of the following performance indicators: average volume of Recyclable Materials
26 per setout per Service Recipient, average volume of Green Waste/Organic Waste per setout per
27 Service Recipient, participation level, contamination levels, etc. Prior to the program evaluation
28 review, CITY and CONTRACTOR shall meet and discuss the purpose of the review and agree
29 on the method, scope, and date to be provided by the CONTRACTOR.

30 20.03 Cooperation with Other Program Reviews. If the CITY wants to collect program
31 data, perform field work, conduct route audits to investigate Service Recipient participation
32 levels and setout volumes and/or evaluate and monitor program results related to Garbage,
33 Recyclable Materials and Green Waste/Organic Waste collected in the CITY by the
34 CONTRACTOR, the CONTRACTOR shall cooperate with the CITY. CONTRACTOR shall also
35 cooperate with any waste generation studies or conducted by the CITY or its agent(s).

36 ARTICLE 21. Performance Bond

37 21.01 Performance Bond. The Agreement must be executed and bond furnished by
38 the CONTRACTOR within fifteen (15) calendar days after award of this Agreement by the CITY.
39 The CONTRACTOR shall furnish to the CITY, and keep current, a performance bond in a form
40 with language that is acceptable to the CITY Attorney, for the faithful performance of this
41 Agreement and all obligations arising hereunder in an amount of **Five Hundred Thousand**
42 **Dollars (\$500,000.00).**

43 21.01.1 The performance bond shall be executed by a surety company
44 that is acceptable to the CITY; an admitted surety company licensed to do business in the State

1 22.02.5 Hazardous Waste and Environmental Impairment Liability: **Three**
2 **Million Dollars (\$3,000,000.00) each occurrence/Ten Million Dollars (\$10,000,000.00)** policy
3 aggregate covering liability arising from the release of waste materials and/or irritants,
4 contaminants or pollutants. Such coverage shall, if commercially available without involvement
5 of CITY, automatically broaden in its form of coverage to include legislated changes in the
6 definition of waste material and/or irritants, contaminants or pollutants. This policy shall
7 stipulate this insurance is primary and no other insurance carried by CITY will be called upon to
8 contribute to the loss suffered by the CONTRACTOR hereunder and waive subrogation against
9 the CITY and other additional insureds.

10 22.03 Deductibles and Self-Insured Retention. Any deductibles or self-insured
11 retention must be declared to, and approved by, CITY. CITY shall not withhold approval of any
12 Deductible or Self-Insured Retention amounts where CONTRACTOR can demonstrate a
13 successful history of managing such Deductibles or Self-Insured Retention amounts.

14 22.04 Endorsements. The policies are to contain, or be endorsed to contain, the
15 following provisions:

16 22.04.1 The CITY, its officers, employees, agents and volunteers are to be
17 covered as additional insureds with respect to liability arising out of automobiles owned, leased,
18 hired or borrowed by or on behalf of CONTRACTOR; products and completed operations of
19 CONTRACTOR; and with respect to liability arising out of work or operations performed by or on
20 behalf of the CONTRACTOR including material parts or equipment furnished in connection with
21 such work or operations; Pollution and/or Asbestos Pollution.

22 22.04.2 CONTRACTOR'S insurance coverage shall be primary insurance
23 as respects CITY, its officers, officials, employees, agents and volunteers. Any insurance or
24 self-insurance maintained by the CITY, its officers, officials, employees, agents or volunteers
25 shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.

26 22.04.3 Each insurance policy required by this clause shall be occurrence-
27 based, or an alternative form as approved by the CITY and shall be endorsed to state that
28 coverage shall not be cancelled by the Insurer except after thirty (30) days prior written notice
29 has been given to the CITY.

30 22.04.4 The CONTRACTOR'S insurance shall apply separately to each
31 insured against whom claim is made or suit is brought, except with respect to the limits of the
32 insurer's liability.

33 22.04.5 The Automobile Liability policy shall be endorsed to delete the
34 Pollution and/or the Asbestos exclusion, or documentation that the CONTRACTOR carries
35 environmental pollution liability coverage for solid waste transported by the CONTRACTOR.
36 The Automobile Liability policy shall also be endorsed to add the Motor Carrier act endorsement
37 (MCS-90) TL 1005, TL 1007 and /or other endorsements required by federal or state authorities.

38 22.04.6 Worker's Compensation and Employers Liability Coverage. The
39 insurer shall agree to waive all rights of subrogation against the CITY, its officers, officials,
40 employees and volunteers for losses arising from work performed by the CONTRACTOR for the
41 CITY.

42 22.04.7 All Coverages. Each insurance policy required by this clause shall
43 be occurrence-based or an alternate form as approved by the CITY and endorsed to state that
44 coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or

1 limits except after thirty (30) days prior written notice by certified mail, return receipt requested,
2 has been given to the CITY.

3 22.04.7.1 Any failure to comply with reporting provisions of the
4 policies shall not affect CONTRACTOR’S obligations to CITY, its officers, officials, employees,
5 agents or volunteers.

6 22.04.7.2 The CITY, its officers, officials, agents, employees and
7 volunteers shall be named as additional insureds on all policies.

8 22.05 Acceptability of Insurers. Insurance is to be placed with insurers with a current
9 A.M. Best’s rating of no less than A:VII if admitted. If pollution and or Environmental Impairment
10 and/or errors and omission coverage are not available from an “Admitted” insurer, the coverage
11 may be written with the CITY’s permission, by a non-admitted insurance company. A Non-
12 admitted company should have an A.M. Best’s rating of A:X or higher.

13 22.06 Verification of Coverage. CONTRACTOR shall furnish CITY with original
14 certificates and with amendatory endorsements effecting coverage required by this clause. The
15 endorsements are to be signed by a person authorized by the Insurer to bind coverage on its
16 behalf. The endorsements are to be on forms provided by the City, unless the insurer will not
17 use the CITY’s forms. All endorsements are to be received and approved by the CITY Attorney
18 before work commences. As an alternative to the CITY’s forms, the CONTRACTOR’s insurer
19 may provide complete copies of all required insurance policies, including endorsements
20 effecting coverage required by these specifications.

21 22.07 Subcontractors. CONTRACTOR shall include all subcontractors as insureds
22 under its policies or shall obtain separate certificates and endorsements for each subcontractor.

23 22.07.1 Proof of insurance shall be mailed to the following address or any
24 subsequent address as may be directed in writing by the CITY.

25 **City Attorney**
26 **Benicia City Hall**
27 **250 East L Street**
28 **Benicia, California 94510**

29 22.08 Modification of Insurance Requirements. The insurance requirements provided
30 in this Agreement may be modified or waived by the CITY Attorney, in writing, upon the request
31 of CONTRACTOR if the CITY determines such modification or waiver is in the best interest of
32 CITY considering all relevant factors, including exposure to CITY.

33 22.09 Rights of Subrogation. All required insurance policies shall preclude any
34 underwriter’s rights of recovery or subrogation against CITY with the express intention of the
35 parties being that the required insurance coverage protects both parties as the primary
36 coverage for any and all losses covered by the above-described insurance. CONTRACTOR
37 shall ensure that any companies issuing insurance to cover the requirements contained in this
38 Agreement agree that they shall have no recourse against CITY for payment or assessments in
39 any form on any policy of insurance. The clauses ‘Other Insurance Provisions’ and ‘Insured
40 Duties in the Event of an Occurrence, Claim or Suit’ as it appears in any policy of insurance in
41 which CITY is named as an additional insured shall not apply to CITY.

ARTICLE 23. Indemnification

1
2 23.01 Indemnification of the CITY. CONTRACTOR shall defend, with counsel
3 acceptable to the CITY, indemnify and hold harmless, to the fullest extent allowed by law, CITY,
4 its officers, officials, employees, volunteers agents and assignees (indemnities), from and
5 against any and all loss, liability, penalties, forfeitures, claims, demands, actions, proceedings or
6 suits, in law or in equity, of every kind and description, (including, but not limited to, injury to and
7 death of any person and damage to property, or for contribution or indemnity claimed by third
8 parties) arising or resulting from or in any way connected with: (i) the operation of the
9 CONTRACTOR, its agents, employees, contractors, and/or subcontractors, in exercising the
10 privileges granted to it by this Agreement; (ii) the failure of the CONTRACTOR, its agents,
11 employees, contractors, and/or subcontractors to comply in all respects with the provisions and
12 requirements of this Agreement, applicable laws, ordinances and regulations, and/or applicable
13 permits and licenses; and (iii) the acts of CONTRACTOR, its agents, employees, contractors,
14 and/or subcontractors in performing services under this Agreement for which strict liability is
15 imposed by law. The foregoing indemnity shall apply regardless of whether such loss, liability,
16 penalty, forfeiture, claim, action, suit injury, death or damage is also caused in part by any of the
17 indemnitees' negligence.

18 23.02 The CONTRACTOR's obligation to defend, hold harmless, and indemnify shall
19 not be excused because of the CONTRACTOR's inability to evaluate Liability or because the
20 CONTRACTOR evaluates Liability and determines that the CONTRACTOR is not liable to the
21 claimant. The CONTRACTOR must respond within thirty (30) days to the tender of a claim for
22 defense and indemnity by the CITY, unless this time has been extended by the CITY. If the
23 CONTRACTOR fails to accept or reject a tender of defense and indemnity within thirty (30)
24 days, in addition to any other remedy authorized by law, so much of the money due the
25 CONTRACTOR by virtue of this Agreement as shall reasonably be considered necessary by the
26 CITY, may be retained by the CITY until final disposition has been made or the claim or suit for
27 damages, or until the CONTRACTOR accepts or rejects the tender of defense, whichever
28 occurs first.

29 With respect to third party claims against the CONTRACTOR, the CONTRACTOR
30 waives any and all rights of any type to express or implied indemnity against the Indemnities.

31 23.03 Hazardous Substances Indemnification. The CONTRACTOR shall indemnify,
32 defend with counsel acceptable to the CITY, protect and hold harmless the CITY, its officers,
33 officials, employees, agents, assigns and any successor or successors to the CITY's interest
34 from and against all claims, damages (including but not limited to special, consequential, natural
35 resources and punitive damages) injuries, hazardous materials response mediation and
36 removal costs, losses, demands, liens, liabilities, causes of action, suits, legal or administrative
37 proceedings, interest, fines, charges, penalties, attorney's fees for the adverse party and
38 expenses (including but not limited to attorney's and expert witness fees and costs incurred in
39 connection with defending against any of the foregoing or enforcing this indemnity) of any kind
40 whatsoever paid, incurred or suffered by, or asserted against CITY or its officers, officials,
41 employees, agents, assigns, or contactors arising from or attributable to acts or omissions of
42 CONTRACTOR or its agents, including but not limited to any repair, cleanup or detoxification, or
43 preparation and implementation of any removal, remedial, response, closure or other plan
44 (regardless of whether undertaken due to governmental action) concerning any hazardous
45 substance or Hazardous Wastes at any place where CONTRACTOR transports, stores, or
46 disposes of Garbage pursuant to this Agreement. The foregoing indemnity is intended to
47 operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. section 9607(c)

1 and California Health and Safety Code Section 25364, to defend insure, protect, hold harmless
2 and indemnify the CITY from liability.

3 23.04 CalRecycle Diversion Goals. CONTRACTOR agrees to protect, indemnify, hold
4 harmless, and defend CITY with counsel selected by CONTRACTOR and approved by CITY, to
5 pay all attorneys' fees, and to indemnify and hold CITY harmless from and against all fines or
6 penalties imposed by the California Department of Resources Recycling and Recovery
7 ("CalRecycle") if the diversion goals specified in California Public Resources Code Section
8 41780 as of the date hereof and hereafter throughout are not met by the CITY with respect to
9 the materials collected by CONTRACTOR and if the lack in meeting such goals are attributable
10 to the failure of the CONTRACTOR to implement and operate the recycling or diversion
11 programs or undertake the related activities required by this Agreement.

12 23.05 Maximum Service Rates. CONTRACTOR shall defend with counsel acceptable
13 to the CITY, hold harmless, and indemnify CITY, its officers, officials, employees, volunteers,
14 agents and assignees from and against any loss, liability, penalties, forfeiture, claims, damages,
15 demands, actions, proceedings or suits, in law or equity, of every kind and description, arising
16 from the CITY's setting of maximum Service Rates for Collection Services under this Agreement
17 and/or in connection with the application of Article XIIC and Article XIID of the California
18 Constitution to the imposition, payment, or collection of Maximum Service Rates and fees for
19 services provided by CONTRACTOR under and/or in connection with this Agreement, provided,
20 however, that such obligation to defend, hold harmless and indemnify shall not apply to the
21 imposition or payment of franchise fees, or any other amounts payable to CITY under this
22 Agreement.

23 23.06 Separate Counsel. CITY may elect to have separate legal counsel from
24 CONTRACTOR at any time at its sole discretion, and in such case CONTRACTOR will pay one-
25 half (1/2) of all fees and costs and charges for such separate legal counsel.

26 23.07 Consideration. It is specifically understood and agreed that the consideration
27 inuring to the CONTRACTOR for the execution of this Agreement consists of the promises,
28 payments, covenants, rights and responsibilities contained in this Agreement.

29 23.08 Obligation. The execution of this Agreement by the CONTRACTOR shall
30 obligate the CONTRACTOR to comply with the foregoing indemnification provisions; however,
31 the collateral obligation of providing insurance must also be fully complied with as set forth in
32 Article 22 above.

33 23.09 Subcontractors. The CONTRACTOR shall require all subcontractors to enter
34 into an Agreement containing the provisions set forth Section 23.01, 23.02, 23.03, 23.04, 23.05,
35 23.06, 23.07, and Article 22 in its entirety and in the preceding subsection in which Agreement
36 the subcontractor fully indemnifies the CITY in accordance with this Agreement.

37 23.10 Exception. Notwithstanding Articles 23.01, 23.02 and 23.03, CONTRACTOR'S
38 obligation to indemnify, hold harmless and defend CITY, its officers and employees shall not
39 extend to any loss, liability, penalty, plain, damage, action or suit arising or resulting solely from
40 acts or omissions constituting willful misconduct or sole negligence on the part of the CITY its
41 officers or employees.

42 23.11 Damage by CONTRACTOR. If CONTRACTOR'S employees or subcontractors
43 cause any injury, damage or loss to CITY property, including but not limited to CITY Streets or
44 curbs, CONTRACTOR shall reimburse CITY for CITY'S cost of repairing such injury, damage or
45 loss. Such reimbursement is not in derogation of any right of CITY to be indemnified by

1 CONTRACTOR for any such injury, damage or loss. With the prior written approval of CITY,
2 CONTRACTOR may repair the damage at CONTRACTOR'S sole cost and expense.

3 ARTICLE 24. Default of Agreement

4 24.01 Termination. The CITY may cancel this Agreement, except as otherwise
5 provided below in this Article, by giving the CONTRACTOR thirty (30) calendar days advance
6 written notice, to be served as provided in Article 41, upon the happening of any one of the
7 following events:

8 24.01.1 The CONTRACTOR shall take the benefit of any present or future
9 insolvency statute, or shall make a general assignment for the benefit of creditors, or file a
10 voluntary petition in bankruptcy (court) or a petition or answer seeking an arrangement for its
11 reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or
12 under any other law or statute of the United States or any state thereof, or consent to the
13 appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

14 24.01.2 By order or decree of a Court, the CONTRACTOR shall be
15 adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or
16 by any of the stockholders of the CONTRACTOR, seeking its reorganization or the readjustment
17 of its indebtedness under the federal bankruptcy laws or under any law or statute of the United
18 States or of any state thereof, provided that if any such judgment or order is stayed or vacated
19 within sixty (60) calendar days after the entry thereof, any notice of default shall be and become
20 null, void and of no effect; unless such stayed judgment or order is reinstated in which case,
21 said default shall be deemed immediate; or

22 24.01.3 By, or pursuant to, or under the authority of any legislative act,
23 resolution or rule or any order or decree of any court or governmental board, agency or officer
24 having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or
25 substantially all of the property of the CONTRACTOR, and such possession or control shall
26 continue in effect for a period of sixty (60) calendar days; or

27 24.01.4 The CONTRACTOR has defaulted, by failing or refusing to pay in
28 a timely manner the liquidated damages or other monies due the CITY and said default is not
29 cured within thirty (30) calendar days of receipt of written notice by CITY to do so; or

30 24.01.5 The CONTRACTOR has defaulted by allowing any final judgment
31 for the payment of money to stand against it unsatisfied and said default is not cured within
32 thirty (30) calendar days of receipt of written notice by CITY to do so; or

33 24.01.6 In the event that the monies due the CITY under Section 24.01.3
34 above or an unsatisfied final judgment under Section 24.01.4 above is the subject of a judicial
35 proceeding, the CITY may, at its option call the Performance Bond, or hold the CONTRACTOR
36 in default of this Agreement; or

37 24.01.7 The CONTRACTOR has defaulted, by failing or refusing to
38 perform or observe the terms, conditions or covenants in this Agreement, including satisfactory
39 conformance with the requirements of Article 20, the service levels prescribed herein, provided
40 that said default is not cured within thirty (30) calendar days of receipt of written notice by the
41 CITY to do so, or if by reason of the nature of such default, the same cannot be remedied within
42 thirty (30) calendar days following receipt by the CONTRACTOR of written demand from the
43 CITY to do so, the CONTRACTOR fails to commence the remedy of such default within said
44 thirty (30) calendar days following such written notice or having so commenced shall fail
45 thereafter to continue with diligence the curing thereof. In any dispute concerning failure to

1 remedy or diligence in pursuing a cure, the CONTRACTOR shall have the burden of proof to
2 demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it
3 is proceeding with diligence to cure said default, and such default will be cured within a
4 reasonable period of time. However, notwithstanding anything contained herein to the contrary,
5 for the failure of the CONTRACTOR to provide Collection Services for a period of three (3)
6 consecutive Work Days, on the fourth (4th) Work Day the CITY may secure the
7 CONTRACTOR'S equipment, records and other property used or useful in providing Collection
8 Services under this Agreement in order to provide interim Collection Services until such time as
9 the matter is resolved and the CONTRACTOR is again able to perform pursuant to this
10 Agreement; provided, however, if the CONTRACTOR is unable for any reason or cause to
11 resume performance at the end of thirty (30) calendar days all liability of the CITY under this
12 Agreement to the CONTRACTOR shall cease and this Agreement may be deemed terminated
13 by the CITY, and the CITY shall retain equipment, records and other property used in providing
14 Collection Services on an interim basis until the CITY has made other suitable arrangements for
15 the provision of Collection Services, which may include award of the Agreement to another
16 contractor.

17 24.01.8 In the event that the Agreement is terminated, CONTRACTOR shall
18 furnish the CITY with immediate access to all of its business records related to its customer and
19 billing accounts for Collection Services.

20 24.01.9 Ninety Day Discontinuance of Service Upon Termination. In the event
21 that the Agreement is terminated, it is understood and agreed by the CITY and the
22 CONTRACTOR herein that the CITY shall have the right to require the CONTRACTOR to
23 continue its services, as set forth in this Agreement for a period not to exceed three (3) months
24 as specified in Section 3.7 and said CONTRACTOR shall be paid for services during the time at
25 the rates specified in this Agreement; it being further understood and agreed that the
26 continuance of the services by the CONTRACTOR after a termination of the Agreement by the
27 CITY for the aforesaid period of sixty (60) days does not in any way waive the termination of this
28 Agreement.

29 24.02 Effective Date. In the event of the aforesaid events specified above, and except
30 as otherwise provided in said subsections, termination shall be effective upon the date specified
31 in the CITY'S written notice to the CONTRACTOR and upon said date this Agreement shall be
32 deemed immediately terminated and upon such termination all liability of the CITY under this
33 Agreement to the CONTRACTOR shall cease, and the CITY shall have the right to call the
34 performance bond and shall be free to negotiate with other contractors for the operation of the
35 herein specified services. The CONTRACTOR for failure to perform shall reimburse the CITY
36 all direct and indirect costs of providing interim Collection Services.

37 24.03 Immediate Termination. CITY may terminate this Agreement immediately upon
38 written notice to CONTRACTOR in the event CONTRACTOR fails to provide and maintain the
39 performance bond as required by this Agreement, or if CONTRACTOR fails to obtain or
40 maintain insurance policies endorsements as required by this Agreement, or if CONTRACTOR
41 fails to provide the proof of insurance as required by this Agreement, or if CONTRACTOR offers
42 or gives any gift prohibited by CITY administrative policy.

43 24.04 Termination Cumulative. CITY'S right to terminate this Agreement is cumulative
44 to any other rights and remedies provided by law or by this Agreement.

45 24.05 Force Majeure. The parties shall be excused from performing their respective
46 obligations hereunder in the event they are prevented from so performing by reason of any acts
47 of God, such as landslides, lightning, fires, storms, floods, pestilence, freezing, and

1 earthquakes; explosions, sabotage, civil disturbances, acts of a public enemy, wars, blockades,
2 riots, or other industrial disturbances, eminent domain, condemnation or other taking, unlawful
3 conduct, vandalism and sabotage, concerted labor action not engaged in by CONTRACTOR'S
4 employees, acts of a governmental authority, or other events not caused or maintained by CITY
5 or CONTRACTOR, which event is not reasonably within the control of the party claiming the
6 excuse from its obligations due to such event, to the extent such event has a significant and
7 material adverse effect on the ability of a party to perform its obligations thereunder. Force
8 Majeure shall not include power outages, fuel shortages, strikes by CONTRACTOR'S
9 employees, work stoppage or slowdown by CONTRACTOR'S employees, sickout, lockout,
10 picketing or other concerted job action conducted by CONTRACTOR'S employees. Force
11 Majeure shall include a Change in Law if such Change in Law prohibits a party's performance
12 hereunder. Notwithstanding the foregoing, (i) no failure of performance by any subcontractor of
13 CONTRACTOR shall be a Force Majeure unless such failure was itself caused by a Force
14 Majeure; (ii) except as provided herein, no event which merely increases CONTRACTOR'S cost
15 of performance shall be a Force Majeure; and (iii) no event, the effects of which could have
16 been prevented by reasonable precautions, including compliance with agreements and
17 applicable laws, shall be a Force Majeure.

18 ARTICLE 25. Modifications to the Agreement

19 25.01 Agreement Modifications and Changes in Law. The CITY and the
20 CONTRACTOR understand and agree that the California Legislature has the authority to make
21 comprehensive changes in Garbage, Recyclables, or Green Waste/Organic Waste
22 Management legislation and that these and other changes in law in the future which mandate
23 certain actions or programs for counties or municipalities may require changes or modifications
24 in some of the terms, conditions or obligations under this Agreement. The CONTRACTOR
25 agrees that the terms and provisions of the Municipal Code, as it now exists or as it may be
26 amended in the future, shall apply to all of the provisions of this Agreement and the Service
27 Recipients of the CONTRACTOR located within the Service Area. In the event any future
28 Change in Law, modifications to the CITY Municipal Code, or directed changes by the CITY
29 materially alters the obligations of the CONTRACTOR, then the affected compensation as
30 established under this Agreement shall be adjusted. Nothing contained in this Agreement shall
31 require any party to perform any act or function contrary to law. The CITY and CONTRACTOR
32 agree to enter into good faith negotiations regarding modifications to this Agreement, which may
33 be required in order to implement changes in the interest of the public welfare or due to Change
34 in Law. When such modifications are made to this Agreement, the CITY and the
35 CONTRACTOR shall negotiate in good faith a reasonable and appropriate compensation
36 adjustment for any increase or decrease in the services or other obligations required of the
37 CONTRACTOR due to any modification in the Agreement under this Article. The CITY and the
38 CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

39 25.02 CITY Code Amendments. It is understood that this Agreement shall not prevent
40 the CITY from in any way amending Chapter 8.24 of Benicia City Code, or from adopting any
41 amendments concerning the collection and disposition of refuse in the CITY, and that such
42 amendments from time-to-time may include changes in the rates provided for in said Code. It is
43 understood, however, that no ordinance or amendment thereof shall impair the exclusive rights
44 provided to the CONTRACTOR hereunder.

45 25.02.1 Compensation Adjustments.

1 25.02.1.1 Change in Law That Requires Service Change. In the
2 event of a Change in Law or regulations of any governmental agency regulatory changes,
3 changes in law such as any new or amended federal, state or local law or regulation or any
4 change in the interpretation or enforcement thereof that will require additional or different
5 services to be provided by CONTRACTOR or increase the cost of providing the services
6 described in this Agreement, which are not otherwise covered by this Agreement,
7 CONTRACTOR shall provide CITY with a written rate increase request for additional
8 compensation to CONTRACTOR based on such additional or different services. CITY shall not
9 unreasonably withhold its approval of such request and shall review the request within 60 days
10 of its submittal. If the proposed rate increase exceeds five percent (5%) and CITY does not
11 agree with such rate increase, CITY, in addition to negotiating with CONTRACTOR may submit
12 the matter to non-binding mediation upon the following terms and conditions in Section 25.7.
13 CITY and CONTRACTOR shall agree to the effective date of any such compensation
14 adjustment approved by City Council.

15 25.02.1.2 Change In Governmental Fees, Surcharges and Taxes.
16 CONTRACTOR may request additional compensation for increases in governmental fees,
17 surcharges and taxes implemented by a local, state or federal entity or agency. CONTRACTOR
18 shall be able to adjust the compensation received for these increases upon submittal of
19 justification to the CITY and following CITY review of the submittal. CITY shall not
20 unreasonably withhold review or consent to these compensation adjustments and
21 CONTRACTOR shall be able to adjust rates within 60 days of submittal of their request or at a
22 time mutually agreed on between the CITY and CONTRACTOR to better align with the normally
23 scheduled July 1st adjustments to Maximum Rates.

24 25.03 City-Directed Changes. CITY may direct CONTRACTOR to perform additional
25 services (including new diversion programs, additional public education activities, etc.),
26 eliminate programs, or modify the manner in which it performs existing services. Changes in
27 the minimum diversion requirement set forth in Article 5 of this Agreement, direction of Garbage
28 to a Disposal Facility other than that originally selected by the CITY, pilot programs and
29 innovative services, which may entail new collection methods, targeted routing, different kinds of
30 services, different types of collection vehicles, and/or new requirements for Service Recipients
31 are included among the kinds of changes which CITY may direct. CONTRACTOR shall be
32 entitled to an adjustment in its compensation for providing such additional or modified services
33 but not for the preparation of its proposal to perform such services.

34 25.04 Service Proposal. Within thirty (30) calendar days of receipt of a request for a
35 service change from the CITY, CONTRACTOR shall submit a proposal to provide such service.
36 At a minimum, the proposal shall contain a complete description of the following:

37 25.04.1 Collection methodology to be employed (equipment, manpower,
38 etc.).

39 25.04.2 Equipment to be utilized (vehicle number, types, capacity, age,
40 etc.).

41 25.04.3 Labor requirements (number of employees by classification).

42 25.04.4 Type of carts or bins to be utilized.

43 25.04.5 Provision for program publicity, education, and marketing.

44 25.04.6 Five (5) year projection of the financial results of the program's
45 operations in an operating statement format including documentation of the key assumptions

1 underlying the projections and the support for those assumptions, giving full effect to the
2 savings or costs to existing services.

3 25.05 CONTRACTOR acknowledges and agrees that CITY may permit other
4 contractors or companies besides CONTRACTOR to provide additional Collection Services and
5 such other services not otherwise contemplated if CONTRACTOR and CITY cannot agree on
6 terms and conditions, including compensation adjustments, of such services in one hundred
7 twenty (120) calendar days from the date when CITY first requests a proposal from
8 CONTRACTOR to perform such services.

9 25.06 Monitoring and Evaluation. If the CITY requests, the CONTRACTOR shall
10 meet with the CITY to describe the progress of each new program and other service issues. If
11 applicable, CONTRACTOR shall document the results of the new programs on a monthly basis,
12 including at a minimum the tonnage diverted by material type, the end use or processor of the
13 diverted materials and the cost per ton for transporting and processing each type of material
14 and other such information requested by the CONTRACTOR and/or CITY necessary to
15 evaluate the performance of each program.

16 25.06.1 At each meeting, the CITY and CONTRACTOR shall have the
17 opportunity to discuss revisions to the program. The CITY shall have the right to terminate a
18 program if, in its sole discretion, the CONTRACTOR is not cost effectively achieving the
19 program's goals and objectives. Prior to such termination, the CITY shall meet and confer with
20 the CONTRACTOR for a period of up to ninety (90) calendar days to resolve the CITY'S
21 concerns. Thereafter, the CITY may utilize a third party to perform these services if the CITY
22 reasonably believes the third party can improve on CONTRACTOR'S performance and/or cost.
23 Notwithstanding these changes, CONTRACTOR shall continue the program during the ninety
24 (90) day period and, thereafter, until the third party takes over the program.

25 25.07 Dispute Resolution. All disputes relating to service or compensation changes as
26 specified in Section 25.01, 25.02, or 25.03 of this Agreement shall be resolved by the following
27 procedures:

28 25.07.1 Mediation. The parties shall first participate in non-binding
29 mediation of any dispute arising under this Agreement (whether contract, tort, or otherwise), as
30 provided hereafter:

31 25.07.1.1 The party desiring mediation shall first give written notice
32 thereof to the other party to this Agreement, specifying the dispute to be mediated.

33 25.07.1.2 The mediation shall be held at Benicia, California, or at
34 such other location as may be mutually agreed among the parties. The mediation shall be
35 conducted according to and a mediator chosen pursuant to the rules of the American Arbitration
36 Association.

37 25.07.1.3 At least ten (10) business days before the date of the
38 mediation, each side shall provide the mediator with a statement of its position and copies of all
39 supporting documents. Each party shall send to the mediation a person who has authority to
40 negotiate on behalf of the party. If a subsequent dispute will involve third parties, such as
41 insurers or subcontractors, they shall also be asked to participate in the mediation.

42 ARTICLE 26. Legal Representation

43 26.01 Acknowledgement. It is acknowledged that each party was, or had the
44 opportunity to be, represented by counsel in the preparation of and contributed equally to the

1 terms and conditions of this Agreement and, accordingly, the rule that a contract or Agreement
2 shall be interpreted strictly against the party preparing the same shall not apply herein due to
3 the joint contributions of both parties.

4 ARTICLE 27. Financial Interest

5 27.01 Representation. CONTRACTOR warrants and represents that no elected official,
6 officer, agent or employee of the CITY has a financial interest, directly or indirectly, in this
7 Agreement or the compensation to be paid under it and, further, that no CITY employee who
8 acts in the CITY as a "purchasing agent" as defined in the appropriate Section of California
9 Statutes, nor any elected or appointed officer of the CITY, nor any spouse or child of such
10 purchasing agent, employee or elected or appointed officer, is a partner, officer, director or
11 proprietor of the CONTRACTOR and, further, that no such CITY employee, purchasing agent,
12 CITY elected or appointed officer, or the spouse or child of any of them, alone or in combination,
13 has a material interest in the CONTRACTOR. Material interest means direct or indirect
14 ownership of more than five percent (5%) of the total assets or capital stock of the
15 CONTRACTOR.

16 ARTICLE 28. CONTRACTOR'S Personnel

17 28.01 Personnel Requirements. The CONTRACTOR shall employ and assign qualified
18 personnel to perform all services set forth herein. The CONTRACTOR shall be responsible for
19 ensuring that its employees comply with all applicable laws and regulations and meet all federal,
20 state and local requirements related to their employment and position.

21 28.01.1 The CITY may request the transfer of any employee of the
22 CONTRACTOR who materially violates any provision hereof, or who is wanton, negligent, or
23 discourteous in the performance of his/her duties.

24 28.01.2 CONTRACTOR'S field operations personnel shall be required to
25 wear a clean uniform shirt bearing the CONTRACTOR'S name. CONTRACTOR'S employees,
26 who normally come into direct contact with the public, including drivers, shall bear some means
27 of individual photographic identification such as a name tag or identification card.

28 28.01.3 Each driver of a Collection vehicle shall at all times carry a valid
29 California driver's license and all other required licenses for the type of vehicle that is being
30 operated.

31 28.01.4 Each driver of a Collection vehicle shall at all times comply with all
32 applicable state and federal laws, regulations and requirements.

33 28.01.5 CONTRACTOR'S employees, officers, and agents shall at no time
34 be allowed to identify themselves or in any way represent themselves as being employees of
35 the CITY.

36 ARTICLE 29. Exempt Waste

37 29.01 The CONTRACTOR shall not be required to collect or dispose of Exempt Waste,
38 but may offer such services. All such Collection and disposal of Exempt Waste is not regulated
39 under this Agreement, but if provided by the CONTRACTOR shall be in strict compliance with
40 all federal, state and local laws and regulations.

ARTICLE 30. Independent Contractor

1
2 30.01 In the performance of services pursuant to this Agreement, CONTRACTOR shall
3 be an independent contractor and not an officer, agent, servant or employee of CITY.
4 CONTRACTOR shall have exclusive control of the details of the services and work performed
5 and over all persons performing such services and work. CONTRACTOR shall be solely
6 responsible for the acts and omissions of its officers, agents, employees, contractors and
7 subcontractors, if any. Neither CONTRACTOR nor its officers, employees, agents, contractors
8 or subcontractors shall obtain any right to retirement benefits, Workers Compensation benefits,
9 or any other compensation or benefits, which accrue, to CITY employees and CONTRACTOR
10 expressly waives any claim it may have or acquire to such compensation or benefits.

ARTICLE 31. Laws to Govern

11
12 31.01 The law of the State of California shall govern the rights, obligations, duties and
13 liabilities of CITY and CONTRACTOR under this Agreement and shall govern the interpretation
14 of this Agreement.

ARTICLE 32. Consent to Jurisdiction

15
16 32.01 The parties agree that any litigation between CITY and CONTRACTOR
17 concerning or arising out of this Agreement shall be filed and maintained exclusively in the
18 Municipal or Superior Courts of Solano County, State of California, or in the United States
19 District Court for the Northern District of California to the fullest extent permissible by law. Each
20 party consents to service of process in any manner authorized by California law.

ARTICLE 33. Assignment

21
22 33.01 No assignment of this Agreement or any right occurring under this Agreement
23 shall be made in whole or in part by the CONTRACTOR without the express written consent of
24 the CITY. The CITY shall have full discretion to approve or deny, with or without cause, any
25 proposed or actual assignment, selling or transfer of this Agreement, or its rights, duties and
26 obligation by the CONTRACTOR. Any assignment of this Agreement made by the
27 CONTRACTOR without the express written consent of the CITY shall be null and void and shall
28 be grounds for the CITY to declare a default of this Agreement and immediately terminate this
29 Agreement by giving written notice to the CONTRACTOR, and upon the date of such notice this
30 Agreement shall be deemed immediately terminated, and upon such termination all liability of
31 the CITY under this Agreement to the CONTRACTOR shall cease, and the CITY shall have the
32 right to call the performance bond and shall be free to negotiate with other contractors, the
33 CONTRACTOR, or any other person or company for the service which is the subject of this
34 Agreement. In the event of any assignment, the assignee shall fully assume all the liabilities of
35 the CONTRACTOR.

36 33.02 The use of a subcontractor to perform services under this Agreement shall not
37 constitute delegation of CONTRACTOR'S duties provided that CONTRACTOR has received
38 prior written authorization from the City Representative to subcontract such services and the
39 City Representative has approved a subcontractor who will perform such services.
40 CONTRACTOR shall be responsible for directing the work of CONTRACTOR'S subcontractors
41 and any compensation due or payable to CONTRACTOR'S subcontractor shall be the sole
42 responsibility of CONTRACTOR. The City Representative shall have the right to require the

1 removal of any approved subcontractor for reasonable cause. The subcontractors listed in
2 **Exhibit 4** to this Agreement are hereby approved by the CITY.

3 33.03 For purposes of this Article when used in reference to CONTRACTOR,
4 "assignment" shall include, but not be limited to (i) a sale, exchange or other transfer of at least
5 fifty-one percent (51%) of CONTRACTOR'S assets dedicated to service under this Agreement
6 to a third party; (ii) a sale, exchange or other transfer of outstanding common stock of
7 CONTRACTOR to a third party provided said sale, exchange or transfer results in a change of
8 control of CONTRACTOR (with control being defined as ownership of more than fifty percent
9 (50%) of CONTRACTOR'S voting securities); (iii) any dissolution, reorganization, consolidation,
10 merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow
11 arrangement, liquidation, subcontracting or lease-back payments, or other transaction which
12 results in a change of control of CONTRACTOR; (iv) any assignment by operation of law,
13 including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of
14 attachment for an execution being levied against this Agreement, appointment of a receiver
15 taking possession of CONTRACTOR'S property, or transfer occurring in the event of a probate
16 proceeding; and (v) any combination of the foregoing (whether or not in related or
17 contemporaneous transactions) which has the effect of any such transfer or change of control of
18 CONTRACTOR.

19 33.04 CONTRACTOR acknowledges that this Agreement involves rendering a vital
20 service to CITY'S residents and businesses, and that CITY has selected CONTRACTOR to
21 perform the services specified herein based on (i) CONTRACTOR's experience, skill and
22 reputation for conducting its Garbage, recycling and Green Waste/Organic waste management
23 operations in a safe, effective and responsible fashion, at all times in keeping with applicable
24 environmental laws, regulations and best Garbage, recycling and Green Waste/Organic Waste
25 management practices, and (ii) CONTRACTOR'S financial resources to maintain the required
26 equipment and to support its indemnity obligations to CITY under this Agreement. CITY has
27 relied on each of these factors, among others, in choosing CONTRACTOR to perform the
28 services to be rendered by CONTRACTOR under this Agreement.

29 ARTICLE 34. Compliance with Laws

30 34.01 In the performance of this Agreement, CONTRACTOR shall comply with all
31 applicable laws, regulations, ordinances and codes of the federal, state and local governments,
32 including without limitation the Municipal Code of the City of Benicia.

33 34.02 CITY shall provide written notice to CONTRACTOR of any planned amendment
34 of the CITY Municipal Code that would substantially affect the performance of CONTRACTOR'S
35 services pursuant to this Agreement. Such notice shall be provided at least thirty (30) calendar
36 days prior to the City Council's approval of such an amendment.

37 ARTICLE 35. Permits and Licenses

38 35.01 CONTRACTOR shall obtain, at its own expense, all permits and licenses
39 required by law or ordinance and maintain same in full force and effect throughout the term of
40 this Agreement, including a CITY business license. CONTRACTOR shall provide proof of such
41 permits, licenses or approvals and shall demonstrate compliance with the terms and conditions
42 of such permits, licenses and approvals upon the request of the City Representative.

ARTICLE 36. Ownership of Written Materials

36.01 All reports, documents, brochures, public education materials, and other written, printed, electronic or photographic materials developed by CITY or CONTRACTOR in connection with the services to be performed under this Agreement, whether developed directly or indirectly by CITY or CONTRACTOR shall be and shall remain the property of CITY without limitation or restrictions on the use of such materials by CITY. CONTRACTOR shall not use such materials in connection with any project not connected with this Agreement without the prior written consent of the City Representative. This Article 36 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

ARTICLE 37. Waiver

37.01 Waiver by CITY or CONTRACTOR of any breach for violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach or violation of the same or of any other term, covenant or condition. The subsequent acceptance by CITY of any fee, tax, or any other monies, which may become due from CONTRACTOR to CITY shall not be deemed to be a waiver by CITY of any breach for violation of any term, covenant or condition of this Agreement.

ARTICLE 38. Prohibition Against Gifts

38.01 CONTRACTOR represents that CONTRACTOR is familiar with CITY'S prohibition against the acceptance of any gift by a CITY officer or designated employee. CONTRACTOR shall not offer any CITY officer or designated employee any gifts prohibited by the CITY.

ARTICLE 39. Point of Contact

39.01 The day-to-day dealings between the CONTRACTOR and the CITY shall be between the CONTRACTOR and the City Representative.

ARTICLE 40. Conflict of Interest

40.01 CONTRACTOR shall comply with CITY requirements for conflict of interest and will file all required disclosure statements.

ARTICLE 41. Notices

41.01 Except as provided herein, whenever either party desires to give notice to the other, it must be given by written notice addressed to the party for whom it is intended, at the place last specified and to the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to the CITY:

**City Manager
Benicia City Hall
250 East L Street
Benicia, California 94510**

1 As to the CONTRACTOR:

2 **Tim Argenti, General Manager**
3 **Allied Waste Services**
4 **441 N Buchanan Cir**
5 **Pacheco, CA 94553**
6 **Telephone: (925) 671-5833**
7 **Fax: (925) 685-4735**
8 **E-Mail: targenti@republicservices.com**

9 41.02 Notices shall be effective when received at the address as specified above.
10 Changes in the respective address to which such notice is to be directed may be made by
11 written notice. Facsimile transmission is acceptable notice, effective when received, however,
12 facsimile transmissions received (i.e. printed) after 4:30 p.m. or on weekends or holidays, will be
13 deemed received on the next business day. Receipt is deemed to have taken place within three
14 (3) working days of notice mailed by U.S. Postal Service return receipt requested. The original
15 of items that are transmitted by facsimile equipment must also be mailed as required herein.

16 41.03 Notice by CITY to CONTRACTOR of a Collection or other Service Recipient
17 problem or complaint may be given to CONTRACTOR orally by telephone at CONTRACTOR'S
18 local office with confirmation sent as required above by the end of the Work Day.

19 **ARTICLE 42. Transition to Next Contractor**

20 42.01 In the event CONTRACTOR is not awarded an Agreement to continue to provide
21 Collection Services following the expiration or early termination of this Agreement,
22 CONTRACTOR shall cooperate fully with CITY and any subsequent contractors to assure a
23 smooth transition of services described in this Agreement. Such cooperation shall include but
24 not be limited to transfer of computer data, files and tapes; providing routing information, route
25 maps, vehicle fleet information, and list of Service Recipients; providing a complete inventory of
26 all carts and bins; providing adequate labor and equipment to complete performance of all
27 Collection Services required under this Agreement; taking all actions necessary to transfer
28 ownership of carts and bins, as appropriate, to CITY; including transporting such containers to a
29 location designated by the City Representative; coordinating Collection of materials set out in
30 new containers if new containers are provided for a subsequent Agreement and providing other
31 reports and data required by this Agreement.

32 **ARTICLE 43. Entire Agreement**

33 43.01 This Agreement and the Exhibits attached hereto constitute the entire Agreement
34 and understanding between the parties hereto, and it shall not be considered modified, altered,
35 changed or amended in any respect unless in writing and signed by the parties hereto.

36 **ARTICLE 44. Severability**

37 44.01 If any provision of this Agreement or the application of it to any person or
38 situation shall to any extent be held invalid or unenforceable, the remainder of this Agreement
39 and the application of such provisions to persons or situations other than those as to which it
40 shall have been held invalid or unenforceable, shall not be affected, shall continue in full force
41 and effect, and shall be enforced to the fullest extent permitted by law.

ARTICLE 45. Right to Require Performance

45.01 The failure of the CITY at any time to require performance by the CONTRACTOR of any provision hereof shall in no way affect the right of the CITY thereafter to enforce same. Nor shall waiver by the CITY of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

ARTICLE 46. All Prior Agreements Superseded

46.01 This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, contracts and understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements, contracts or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations, agreements or contracts, whether oral or written.

ARTICLE 47. Headings

47.01 Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

ARTICLE 48. Exhibits

48.01 Each Exhibit referred to in this Agreement forms an essential part of this Agreement. Each such Exhibit is a part of this Agreement and each is incorporated by this reference.

ARTICLE 49. Representations and Warranties of the CONTRACTOR

The CONTRACTOR, by acceptance of this Agreement, represents and warrants the conditions presented in this Article.

49.01 Corporate Status. The CONTRACTOR is a corporation duly organized, validly existing and in good standing under the laws of the State of California ("State"). It is qualified to transact business in the State and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

49.02 Corporate Authorization. CONTRACTOR has the authority to enter this Agreement and perform its obligations under this Agreement. The Board of Directors of CONTRACTOR (or the shareholders, if necessary) has taken all actions required by law, its articles of incorporation, its bylaws, or otherwise, to authorize the execution of this Agreement. The Person signing this Agreement on behalf of CONTRACTOR represents and warrants that they have the authority to do so. This Agreement constitutes the legal, valid, and binding obligation of the CONTRACTOR.

49.03 Agreement Will Not Cause Breach. To the best of CONTRACTOR'S knowledge after responsible investigation, the execution or delivery of this Agreement or the performance by CONTRACTOR of its obligations hereunder does not conflict with, violate, or result in a breach: (i) of any law or governmental regulation applicable to CONTRACTOR; or (ii) any term or condition of any judgment, order, decree, of any court, administrative agency or other

1 governmental authority, or any Agreement or instrument to which CONTRACTOR is a party or
2 by which CONTRACTOR or any of its properties or assets are bound, or constitutes a default
3 thereunder.

4 49.04 No Litigation. To the best of CONTRACTOR'S knowledge after responsible
5 investigation, there is no action, suit, proceeding or investigation, at law or in equity, before or
6 by any court or governmental authority, commission, board, agency or instrumentality decided,
7 pending or threatened against CONTRACTOR wherein an unfavorable decision, ruling or
8 finding, in any single case or in the aggregate would:

9 49.04.1 Materially adversely affect the performance by CONTRACTOR of
10 its obligations hereunder;

11 49.04.2 Adversely affect the validity or enforceability of this Agreement; or

12 49.04.3 Have a material adverse effect on the financial conditions of
13 CONTRACTOR, or any surety or entity guaranteeing CONTRACTOR'S performance under this
14 Agreement.

15 49.05 No Adverse Judicial Decisions. To the best of CONTRACTOR'S knowledge
16 after responsible investigation, there is no judicial decision that would prohibit this Agreement or
17 subject this Agreement to legal challenge.

18 49.06 No Legal Prohibition. To the best of CONTRACTOR'S knowledge after
19 reasonable investigation, there is no Applicable Law in effect on the date CONTRACTOR
20 signed this Agreement that would prohibit the CONTRACTOR'S performance of its obligations
21 under this Agreement and the transactions contemplated hereby.

22 49.07 CONTRACTOR'S Statements. The CONTRACTOR'S proposal and other
23 supplemental information submitted to the City, which the City has relied on in awarding and
24 entering this Agreement, do not: (i) contain any untrue statement of a material fact, or (ii) omit to
25 state a material fact that is necessary in order to make the statements made, in light of the
26 circumstances in which they were made, not misleading.

27 49.08 CONTRACTOR'S Investigation. CONTRACTOR has made an independent
28 investigation (satisfactory to it) of the conditions and circumstances surrounding the Agreement
29 and the work to be performed hereunder. CONTRACTOR has taken such matters into
30 consideration in entering this Agreement to provide services in exchange for the compensation
31 provided for under the terms of this Agreement.

32 49.09 Ability to Perform. CONTRACTOR possesses the business, professional, and
33 technical expertise to collect, transport, and process the Garbage, Recyclable Materials, Green
34 Waste/Organic Waste, and Bulky Waste generated in the CITY. CONTRACTOR possesses the
35 ability to secure equipment, facility(ies), and employee resources required to perform its
36 obligations under this Agreement.

37 49.10 Voluntary Use of Approved Disposal Location and Approved Composting Site.
38 The CONTRACTOR, without constraint and as a free-market business decision in accepting this
39 Agreement, agrees to use the approved facility for the purposes of disposing of all Garbage
40 collected in the CITY and approved composting site for Composting all Green Waste/Organic
41 Waste collected in the CITY. Such decision by CONTRACTOR in no way constitutes a restraint
42 of trade notwithstanding any Change in Law regarding flow control limitations or any definition
43 thereof.

1 IN WITNESS WHEREOF, the CITY and the CONTRACTOR have executed this Agreement on
2 the day and year first written above.

3

4 CITY OF BENICIA

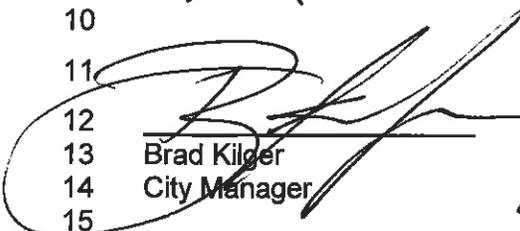
CONTRACTOR

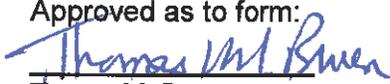
Allied Waste Systems, Inc.

5
6  4.18.11
7 Elizabeth Patterson Date
8 Mayor

 11.22.11
Jeff Andrews, Senior Vice Date
President, Operations.

10

11  4/15/11
12 Brad Kilder Date
13 City Manager

Approved as to form:
 4/20/11
Thomas M. Buren, Date
Counsel for Contractor

16

City of Benicia Business License Number

17

18

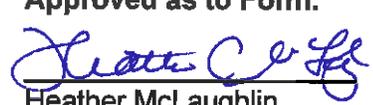
19 The foregoing Agreement has been reviewed and approval is recommended:

20

21 Resolution No. 11-11
22 Approved by City Council
23

24

25 Approved as to Form:

26  4.15.11
27 Heather McLaughlin Date
28 City Attorney
29

30

31

32 Attest:

33  4-18-11
34 Lisa Wolfe Date
35 City Clerk
36

37

- 1 This page intentionally left blank.
- 2

1

| Exhibit 1a MAXIMUM RATES -- SFD CUSTOMERS | | | | | |
|--|---|---------|---|---------|---------|
| A. BASE COLLECTION SERVICE RATES | | | | | |
| Garbage Cart Sizes (gallons) | | 20 | 32 | 64 | 96 |
| A1 | Curbside Collection Monthly Customer Rate | \$21.38 | \$25.29 | \$30.97 | \$42.71 |
| A2 | Subscription On-Premise Collection Monthly Customer Rate | \$29.38 | \$33.29 | \$38.97 | \$50.71 |
| A3 | Senior Monthly Customer Rate | \$18.60 | \$22.15 | \$26.19 | N/A |
| A4 | Curbside Collection Monthly Customer Rate with Green Waste Exemption | \$16.38 | \$20.29 | \$25.97 | \$37.71 |
| B. ADDITIONAL SERVICES RATES | | | | | |
| B2 | Additional Curbside Garbage Cart (added to Line A1) | \$14.92 | \$18.83 | \$24.51 | \$36.25 |
| B3 | Additional On-Premise Garbage Cart (added to Line A2) | \$22.92 | \$26.83 | \$32.51 | \$44.25 |
| B4 | Additional Senior Garbage Cart (added to Line A3) | \$14.20 | \$17.86 | \$23.43 | \$34.52 |
| B6 | Additional Cart Exchange (over 1 per year) | \$0 | each additional Garbage Cart/occurrence | | |
| B7 | Additional Cart Replacement (over 1 per year) | \$0 | each additional Garbage Cart/occurrence | | |
| B8 | Additional Large Item Collection (over 2 collections/year) | | | | |
| Item | | Cost | | | |
| Twin Mattress | | \$40.00 | | | |
| Twin Box Spring | | \$40.00 | | | |
| Double Mattress | | \$40.00 | | | |
| Double Box Springs | | \$40.00 | | | |
| Queen Mattress | | \$40.00 | | | |
| Queen Box Springs | | \$40.00 | | | |

| Exhibit 1a MAXIMUM RATES -- SFD CUSTOMERS | |
|--|----------|
| King Mattress | \$40.00 |
| King Box Springs | \$40.00 |
| Stove | \$50.00 |
| Dryer | \$50.00 |
| Washer | \$40.00 |
| Dishwasher | \$50.00 |
| Hot Water Heater | \$50.00 |
| Sofa/Couch | \$40.00 |
| Hide-a-Bed | \$40.00 |
| Refrigerator (pick up & Freon removal) | \$100.00 |
| Freezer (pick up & Freon removal) | \$100.00 |
| Air Conditioner (pick up & Freon removal) | \$100.00 |
| Swamp Cooler | \$40.00 |
| TV's | \$25.00 |
| Computer Monitor | \$25.00 |
| Large TV Consoles | \$40.00 |
| E-WASTE (3 pieces) | \$5.00 |
| Tires (smaller than 19") | \$9.00 |
| Tires (larger than 19") | \$14.00 |
| Extra 32 gal Bags | \$10.00 |

1

| Exhibit 1b MAXIMUM RATES – COMMERCIAL & MFD CUSTOMERS | | | | | | |
|--|----------------------|-----------------------|------------|--------------------------------|------------|----------|
| A. Garbage Collection (includes Recycling Collection) | | | | | | |
| Container Size | Collection Frequency | | | | | |
| | 1X Week | 2X Week | 3X Week | 4X Week | 5X Week | 6/Week |
| 32 Gallon | \$27.48 | \$54.96 | \$82.44 | \$109.91 | \$137.39 | \$164.87 |
| 64 Gallon | \$31.71 | \$63.42 | \$95.13 | \$126.84 | \$156.56 | \$190.28 |
| 96 Gallon | \$46.78 | \$93.56 | \$140.33 | \$187.11 | \$233.89 | \$280.67 |
| 1 CY Bin | \$119.21 | \$191.74 | \$287.53 | \$383.41 | \$479.26 | N/A |
| 2 CY Bin | \$152.54 | \$305.07 | \$457.60 | \$610.13 | \$762.66 | N/A |
| 3 CY Bin | \$228.75 | \$457.55 | \$686.27 | \$915.02 | \$1,143.81 | N/A |
| 4 CY Bin | \$302.56 | \$605.13 | \$907.69 | \$1,210.24 | \$1,512.81 | N/A |
| 5 CY Bin | \$374.87 | \$749.76 | \$1,124.63 | \$1,499.49 | \$1,874.39 | N/A |
| 6 CY Bin | \$449.85 | \$899.70 | \$1,349.55 | \$1,799.42 | N/A | N/A |
| 8 CY Bin | \$599.96 | \$1,199.91 | \$1,799.90 | \$2,399.84 | \$2,999.80 | N/A |
| B. Green Waste/Organics Collection | | | | | | |
| 32 Gallon | \$10.69 | \$21.38 | \$32.07 | N/A | N/A | N/A |
| 64 Gallon | \$12.65 | \$25.29 | \$37.94 | N/A | N/A | N/A |
| 96 Gallon | \$15.48 | \$30.97 | \$46.45 | N/A | N/A | N/A |
| 1 CY Bin | \$59.61 | \$95.87 | \$143.77 | \$191.71 | \$239.63 | N/A |
| 2 CY Bin | \$76.27 | \$152.54 | \$228.80 | \$305.07 | \$381.33 | N/A |
| 3 CY Bin | \$114.38 | \$228.78 | \$343.14 | \$457.51 | \$571.91 | N/A |
| 4 CY Bin | \$151.28 | \$302.57 | \$453.85 | \$605.12 | \$756.41 | N/A |
| 5 CY Bin | \$187.44 | \$374.88 | \$562.32 | \$749.75 | \$937.20 | N/A |
| 6 CY Bin | \$224.93 | \$449.85 | \$674.78 | \$899.71 | N/A | N/A |
| C. Additional Services | | | | | | |
| Cart or Bin Cleaning | Each Occurrence | | | | | |
| | Cart \$0 | 1 – 4 CY Bin Size \$0 | | 5+ CY Bin Size \$0 | | |
| Additional Bin Exchange | | \$0 | | each additional bin/occurrence | | |
| Additional Bin Replacement | | \$0 | | each additional bin/occurrence | | |

2

1

| Exhibit 1c MAXIMUM SERVICE RATES – SFD, MFD AND COMMERCIAL DEBRIS BOX SERVICES | | | |
|---|---------|------------------------------------|--|
| Debris Box - 8, 10, 15, 20, 30, 40 CY BOX | | \$431.37 | Per Pull (included 1 ton of material) |
| Compactor - 8, 10, 15, 20, 30, 40 CY Compactor | | \$337.00 | Per Pull (includes 1 ton of material) |
| Disposal Charge Per Ton | \$77.97 | Disposal Facility | Keller Canyon |
| Green Waste/Organic Waste Processing Charge Per Ton | \$77.97 | Green Waste/Organic Waste Facility | Keller Canyon/Newby Island/CCL Organics |
| Mixed C&D, Inerts, Green Waste, Wood Waste Processing Charge Per Ton | \$77.97 | Materials Recovery Facility | Contra Costa Transfer and Recovery |
| | | | |
| Demurrage Per Charge (not dumped every 7 days) | | \$100.00 | Per week |
| Per hour Stand-by Charge (box not ready to be pulled) | | \$0 | Per hour |
| Saturday Service | | N/A | Per Pull |
| Charge for Opening Locked Gate | | \$0 | Per month |
| Notes: | | | |
| All 8, 10, 20, 30, 40 CY Debris Boxes and Compactors are pull rates only; disposal or processing will be based on actual disposal or processing and the Franchise Fee as established in Article 4 calculated on the Gross Receipts per box (including collection, processing or disposal). The total customer rate will be the total cost for the collection, processing or disposal and the franchise fee. | | | |

2

1

| Exhibit 1d MAXIMUM RATES -- EMERGENCY SERVICE RATES - EMPLOYEES | |
|--|--------------------|
| Labor Position | Hourly Rate |
| Driver | \$52.50 |

2

3

4

| Exhibit 1e MAXIMUM RATES -- EMERGENCY SERVICE RATES - EQUIPMENT | | |
|--|-------------------------|--------------------|
| Labor Position or Equipment Type | Make & Model | Hourly Rate |
| Route Vehicles | 2010 AutoCar | \$50.00 |
| Transfer Station Loader | 2005 Caterpillar | \$125.00 |

5

6

- 1 This page intentionally left blank.
- 2

1

| Exhibit 2 CITY SERVICE UNITS | | |
|---|--------------------------------|--|
| The following are the facilities that shall receive free Collection Services. | | |
| Building / Facility | Estimated Service Level | |
| 1. Benicia CITY Buildings/Facilities | Address | (Collection at least weekly) |
| Corporation Yard | 2400 E. 2 nd Street | 1 - 2yd 1x/wk 1 - 2yd 1x/wk 2 - 2yd 2x/wk 1 - 2yd 1x/wk recycle 1 - 96 gal 1x/wk recycle 6 - 96 gal 1x/wk recycle |
| Wastewater | 614 E. 5 th Street | 7 - 96 gal carts 1x/wk 4 - 2yd 1x/wk 1 - 3yd 1x/wk 1 - 96 gal cart 1x/wk recycle 1 - 2yd 1x/wk recycle |
| Water Treatment Plant | Lake Herman Road | 1 - 6yd 1x/wk 1 - 2yd 1x/wk 1 - 2yd 1x/mo recycle or as needed 2 - 64 gal carts 2x/mo recycle or as needed |
| Maria Ribeiro Field | 340 East I Street | 5 - 64 gal carts 1x/wk |
| James Lemos Swimming Pool | 181 East J Street | 1 - 64 gal cart 2x/wk 1 - 6yd 1x/wk 1 - 1yd 3x/wk 2 - 96 gal carts 1x/wk recycle |
| 1 st Street cans | 1 st Street | 96 gal carts 2x/wk |
| Fire Station #1 | 150 Military West | 3 - 96 gal carts 2x/wk |

| Exhibit 2 CITY SERVICE UNITS | | |
|---|---|---|
| The following are the facilities that shall receive free Collection Services. | | |
| Building / Facility | Estimated Service Level | |
| | | 2 - 64 gal carts 1x/wk recycle 4 - 96 gal carts 1x/wk recycle 1 - 96 gal 1x/wk yard waste |
| Fire Station #2 | 601 Hastings Drive | 1 - 1yd 1x/wk 4 - 64 gal 1x/wk recycle 3 - 96 gal carts 1x/wk recycle |
| Senior Citizens Center | 1201 East 2 nd Street | 3 - 96 gal carts 2x/wk 1 - 96 gal cart 1x/wk recycle |
| 9 th Street Park | 9 th Street | 8 - 64 gal carts |
| Eunice Jensen Park | E. 2 nd and L Street | 1 - 64 gal cart 1x/wk |
| Fitzgerald Field | E. 3 rd and East I E. H and E. 2 nd Street | 2 - 4yd 2x/wk |
| Civic Center Park | 155 East K Street | 2 - 64 gal carts 2x/wk |
| Police Department | 200 East L Street | 2- 96 gal carts 1x/wk recycle |
| City Attorney | 240 East L Street | 1 - 96 gal 1x/wk recycle |
| City Hall | 250 East L Street | 1 - 6yd 2x/wk 1 - 2yd 1x/wk recycle 2 - 64 gal carts 1x/wk recycle |
| City Cement cans | First Street | 35 - 32 gal carts 3x/wk |
| Francesca Terrace Park | Hillcrest Drive | 3 - 64 gal carts 1x/wk |
| Southampton Park | Panorama Drive | 2 - 64 gal carts 1x/wk |
| Point Benicia Pier | Point Benicia | 6 - 64 gal carts 1x/wk |
| City Cemetery | Riverhill Drive | 3 - 64 gal carts 1x/wk |

| Exhibit 2 CITY SERVICE UNITS | | |
|---|---|--|
| The following are the facilities that shall receive free Collection Services. | | |
| Building / Facility | Estimated Service Level | |
| Overlook Park | Seaview Drive | 1 - 64 gal cart 1x/wk |
| Benicia Middle School Athletic Field | 1100 Southampton Road | 1 - 4yd 1x/wk |
| Y Wives End Park | West I Street and West 4 th Street | 1 - 64 gal cart 1x/wk |
| City Park | West I Street and West 2 nd Street | 8 - 64 gal carts 1x/wk |
| Willow Glen Park | West K Street and West 7 th Street | 1 - 64 gal cart 1x/wk |
| 12 th Street Park | West K Street | 4 - 64 gal carts 1x/wk |
| Jack London Park | Rose and Hastings | 1 - 2yd 1x/wk |
| Lake Herman Park | 7 Lake Herman Road | 1 - 2yd 1x/wk |
| Youth Center | 150 East K Street | 1 - 1yd 1x/wk 1 - 64 gal 1x/wk recycle |
| Semples Crossing | 290 Semple Crossing | 1 - 64 gal 1x/wk |
| Clocktower | 1189 Washington St. | 3 - 6yd 3x/wk |
| Camel Barn Museum | 2090 Camel Road | 1 - 4yd 1x/wk 1 - 1yd 1x/wk recycle |
| Library | 150 East L Street | 1 - 2yd 1x/wk 1 - 2yd 1x/wk recycle 2 - 96 gal carts 1x/wk recycle |
| Benicia Fire Museum | 900 East Second Street | 1 - 2yd 1x/wk |

| Exhibit 2 CITY SERVICE UNITS | | | |
|--|----------------------------------|------------------|---------------|
| The following are the facilities that shall receive free Collection Services. | | | |
| Building / Facility | Estimated Service Level | | |
| | | # Roll-Off Boxes | Service Level |
| Corporation Yard | 2400 East 2 nd Street | 3 (Garbage) | 3x/wk |
| Corporation Yard | 2400 East 2 nd Street | 1 (Green Waste) | On-Call |
| Corporation Yard | 2400 East 2 nd Street | 1 (dirt only) | On Call |
| Corporation Yard | 2400 East 2 nd Street | 1 (cardboard) | 3x/wk |
| Benicia Community Center | 370 East L Street | 2- 5CY Bins | 2x/wk |
| Benicia Community Park | Dempsey Drive | 1 | Wednesday |
| Seasonal Use Containers | | | |
| Coastal Clean-Up Day | | | |
| Annual Spring Clean-Up | | | |
| Tree Lighting / Merchant Open House | | | |
| Art and Jazz Festival | | | |
| Peddler's Fair | | | |
| Depot | | | |
| Commandant's Residence | | | |
| Fourth of July Parade/Picnic | | | |
| Handicraft Fair | | | |
| The City reserves the right to amend the above listing of facilities and to request specific number and type of containers at each facility as the locations and needs of City facilities change per mutual agreement with CONTRACTOR. | | | |

| Exhibit 2 CITY SERVICE UNITS | | |
|---|---|--|
| The following are the facilities that shall receive free Collection Services. | | |
| Building / Facility | Estimated Service Level | |
| Bus Shelters | | |
| <i>Address</i> | <i># of Containers</i> | |
| 100 Military West | 1 | |
| 3. Benicia Unified Public School District | | |
| School | Garbage | Recycling / Green Waste/Organics |
| Robert Semple 2015 East 3rd Street | 2- 6 CY Bin collected Weekdays and Fridays | Recycling and Green Waste/Organics containers in common areas, administration and maintenance buildings, and classrooms, gyms, playground, athletic facilities. Recycling is collected on Fridays Number, size of collection containers, and frequency of collection as needed, but as of 1/15/2001, there are 2 Recycle bins at Benicia High School, and one recycling bin ant each of the other schools. |
| Joe Henderson 650 Hastings Drive | 2- 6 CY Bin collected Weekdays and Fridays | |
| Mary Farmar 901 Military West | 2- 6 CY Bin collected Weekdays and Fridays | |
| Matthew Turner 540 Rose Drive | 2- 6 CY Bin collected Weekdays and Fridays | |
| Benicia High School 1101 Military West | 4- 6 CY Bin collected Weekdays and Fridays | |
| Benicia Middle School 1100 Southampton Road | 2- 6 CY Bin collected Weekdays and Fridays | |
| Liberty High 350 East K Street | 1- 6 CY Bin collected Weekdays and Fridays | |
| 5. Annual Community Cleanup Events | | |
| Clean-up events to be designated by the CITY | <ul style="list-style-type: none"> ▪ As specified in Section 10.02 | |
| 6. CITY Directed Code Enforcement | | |

| Exhibit 2 CITY SERVICE UNITS | |
|---|--|
| The following are the facilities that shall receive free Collection Services. | |
| Building / Facility | Estimated Service Level |
| Various locations throughout the CITY | <ul style="list-style-type: none"> ▪ As specified in Section 10.02. |
| 7. E-Waste and U-Waste Collection | |
| CITY buildings designated by the CITY | <ul style="list-style-type: none"> ▪ On-call collection as needed for CITY generated E-Waste and U-Waste (not open for public drop-off) |

1
2

1

| Exhibit 3 APPROVED FACILITIES |
|---|
| Keller Canyon Landfill 901 Bailey Road Pittsburg, CA 94565 |
| Contra Costa Transfer and Recovery 951 Waterbird Way Martinez, CA 94553 |
| Pacific Rim Recycling 3690 Sprig Drive Benicia, CA 94510 |
| EBMUD 375 11th Street Oakland, CA 94607 |
| Newby Island Recovery Facility 1601 Dixon Landing Road Milpitas, CA 95035 |
| Golden Bear Transfer Station 1 Parr Blvd. Richmond, CA 94801 |
| West County Resource Recovery 101 Pittsburg Ave. Richmond, CA 94801 |

2

3

- 1 This page intentionally left blank.
- 2

1

| Exhibit 4 APPROVED SUBCONTRACTORS |
|--|
| <ol style="list-style-type: none">1. Curbside Inc.2. Pacific Rim Recycling3. Universal Building Services |

2

3

- 1 This page intentionally left blank.
- 2

1

| Exhibit 5 CITY-SPONSORED EVENTS | |
|---|-------------------------|
| The following are the CITY Sponsored Community events that shall receive free services. | |
| Event/Activity | Estimated Service Level |
| Coastal Clean-Up Day | As needed |
| Annual Spring Clean-Up | As needed |
| Tree Lighting / Merchant Open House | As needed |
| Art and Jazz Festival | As needed |
| Peddler's Fair | As needed |
| Depot | As needed |
| Commandant's Residence | As needed |
| Fourth of July Parade/Picnic | As needed |
| Handicraft Fair | As needed |

2

3

- 1 This page intentionally left blank.
- 2

1

| Exhibit 6 | |
|---|--------------------------------|
| CITY STREET SWEEPING SCHEDULE AND TERMS | |
| <p>The following streets that the CONTRACTOR shall provide Street Sweeping Service as set below. CITY Streets have been divided into four classes:</p> <ul style="list-style-type: none"> I. Residential Streets and Parks Parking Lots II. Major Arterial Streets III. Industrial Park Streets IV. Downtown Area Streets <p>The Residential Area Streets (Area 1) are further subdivided into Sections 1-5, which streets in said sections are depicted in a map in Attachment 1 of this Agreement and are incorporated herein by reference.</p> | |
| Sweeping Schedule | Estimated Service Level |
| I. Residential Areas & Parks Parking Lots | Once per month |
| Section 1 | First Monday |
| Section 2 | First Tuesday |
| Section 3 | First Wednesday |
| Section 4 | First Thursday |
| Section 5 | First Friday |
| II. Major Arterial Streets | |
| Southampton Road | 1x/wk |
| West 7 th Street | 1x/wk |
| East 5 th Street (Hwy 780 –south end) | 1x/wk |
| East 2 nd Street (Military East –Tennys) | 1x/wk |
| Military (East and West) | 1x/wk |
| West K Street (Highway 780 to West 6 th Street) | 1x/wk |
| Claverie Way | 1x/wk |

| Exhibit 6 CITY STREET SWEEPING SCHEDULE AND TERMS | |
|---|--------------------|
| West J Street (First Street to West 5 th Street) | 1x/wk |
| III. Industrial Park Streets | Once per month |
| East 2 nd Street (Tennys to Lake Herman Road) | Third Tuesday |
| Park Road (Adams Street to East 2 nd Street) | Third Tuesday |
| Industrial Way (east 2 nd Street to Egret Court) | Third Tuesday |
| Egret Court | Third Tuesday |
| Stone Road (Park Road to East 2 nd Street) | Third Tuesday |
| Getty Court | Third Tuesday |
| Oregon Street | Third Tuesday |
| Goodyear Road | Third Tuesday |
| Bayshore Road (Park Road to ¼ mile South of Park) | Third Tuesday |
| East Channel Road | Third Tuesday |
| West Channel Road (curb areas only) | Third Tuesday |
| West Industrial Road | Third Tuesday |
| Camel Barn Road and parking area | Third Tuesday |
| Clocktower/Commandant's Rd. & parking area | Third Tuesday |
| Water Way/ Water Treatment Plant | Third Tuesday |
| Wastewater Treatment Plant | Third Tuesday |
| Corp Yard | Third Tuesday |
| IV. Downtown Area Streets | Two times per week |
| First Street (including First Street Peninsula) | Monday/Friday |
| City Hall | Monday/Friday |
| East K (1 st . – East 3 rd .) | Monday/Friday |

| Exhibit 6 CITY STREET SWEEPING SCHEDULE AND TERMS | |
|--|---------------|
| East 3 rd (East K – East L) | Monday/Friday |
| East L (East 3 rd . – East 2 nd .) | Monday/Friday |
| East 2 nd . (East L – Military East) | Monday/Friday |

1
2

| Additional Sweeping Prior to the Rainy Season |
|--|
| CONTRACTOR agrees that it shall provide one additional sweeping prior to the start of the rainfall season to assist the CITY in keeping storm drains clear to comply with applicable storm drain water quality requirements. |

3

1 This page intentionally left blank.
2

1

| Exhibit 7 HOUSEHOLD HAZARDOUS WASTE |
|--|
| <ul style="list-style-type: none">▪ Water based latex paint▪ Auto batteries▪ Motor oil▪ Oil filters▪ Antifreeze▪ Fluorescent light bulbs▪ Household batteries and cell phones▪ Sharps (including needles, scalpels, blades, broken medical glass, broken capillary tubes, and ends of dental wires)▪ Pharmaceuticals▪ Cooking oil▪ Cleaning products, pesticides, herbicides, insecticides, painting supplies, automotive products, solvents, stripes, and adhesives▪ Universal Waste |

2

1 This page intentionally left blank.
2

1

| Exhibit 8 EXEMPT GREEN WASTE COLLECTION LOCATIONS |
|---|
| <ul style="list-style-type: none">▪ Bay Vista▪ Bridgeview Heights I▪ Bridgeview Heights II▪ Bridgeview Heights III▪ Costa Vista▪ The Grove▪ Hampton Bay▪ Portside Village▪ Secluded Knolls▪ Villas of Benicia▪ Winward Cove |

2
3

1 This page intentionally left blank.
2

1

| |
|---|
| <p>Exhibit 9</p> <p>ADDITIONAL PROGRAMS AND SERVICES PROVIDED BY CONTRACTOR</p> |
| <ol style="list-style-type: none">1. Join and participate in associations promoting recycling and litter control.2. Make an annual donation of \$2,500 to the Benicia Human Services Fund.3. Sponsor Adopt-a-Highway on I-780 |

2

3

1 This page intentionally left blank.
2

1

| Exhibit 10 CNG Powered Vehicle Replacement Schedule Specifications | |
|---|---|
| VEHICLE TYPE | NEW DATE OF CNG FUELED REPLACEMENT |
| Roll-off Vehicle | No later than December 31, 2015 |
| Front Loader (1 vehicles) | In use as of January 15, 2011 |
| Front Loader (1 vehicle) | No later than December 31, 2012 |
| Automated Side Loaders (4 vehicles) | No Later than December 31, 2012 |

2

3

- 1 This page intentionally left blank.
- 2

1 This page intentionally left blank.
2

1

Exhibit 12

SCHOOL RECYCLING PLAN

Each year, CONTRACTOR, will contact every school in the Benicia Unified School District to inform administrators, teachers and students of educational resources for schools. Information will be presented in assemblies and classrooms and printed materials will be made available.

Roll Out:

- March 2011: CONTRACTOR will meet with Benicia Unified School District officials to determine level of solid waste and recycle service at each school and discuss process for contacting schools regarding recycling education programs. Discuss possibilities of school gardens.
- March – April 2011: Conduct waste audits of current solid waste and recycle programs. Meet with each school's custodian staff. Conduct any necessary training.
- April – May 2011: Meet with identified school contacts to discuss program and types of educational materials needed and best way to deliver programs and information.
- March – June 2011: Develop educational materials (flyers, posters, stickers) needed for distribution beginning September 2011.
- June 2011: Deliver containers to school sites.
- September 2011: Launch educational programs. Identify teachers, students, organizations/clubs who can promote and campaign recycling programs in each school.

On Going:

- Implement two (2) campaigns per year promoting diversion and participation.
- Develop recognition program.
- Identify materials to be diverted or reused and find disposal facilities.
- Work with administrators, teachers, and students to promote and successfully implement recycling programs.
- Encourage material exchange forum to be accessed and used by all schools.

2

3

- 1 This page intentionally left blank.
- 2

Exhibit 13**COMMUNITY OUTREACH PLAN**

CONTRACTOR will develop, produce and distribute, with CITY input and approval, all public education materials listed in the Agreement as well as a roll out campaign for new services.

RESIDENTIAL

Roll out:

- Cart Selection/New Services Brochure - May 2011: Will describe new services and rates. Will have a tear off postcard with postage paid for customers to select a new cart size and additional Recycle and Green Waste/Organic Waste Carts.
- Bill insert – June 2011: Will describe new services and rates.
- Reminder brochure – June 2011: Describes new rates and services. Reminds customer of new services start date.
- Customer Guide – June 2011: Comprehensive brochure describing all services, cart sizes and rates with collection calendar.
- Senior meetings – May/June 2011: Will notify seniors of two (2) scheduled community meetings to answer questions.
- Info in newspaper and on website.
- Form to request additional Recycle and Green Waste/Organic Waste Carts and to change Garbage Cart size on website.
- Bill message – March 2011: Regarding new rates.
- Meet with CITY staff to schedule Reuse Day and Home Compost Workshops. Put activities on calendar in Customer Guide mailed to residents.
- September and December bill inserts with Reuse Day, Home Compost Workshops and other diversion information as well as other services and updates.

Ongoing:

- Annual Customer Guide describing all services and rates.
- Four (4) campaigns per year regarding diversion and participation. Will use bill inserts.
- Schedule two (2) Reuse Days per year for increased diversion in coordination with local nonprofits/groups. Distribute Reuse Guide to participants for additional reuse disposal locations. Have Reuse Guide available on website.
- Schedule four (4) Home Composting Workshops per year. Offer 50% on home Compost bins.
- Maintain and update website with information and activities.
- Coordinate activities with Sustainability Commission.
- Bill insert for holiday tree collection that includes Benicia Boy Scouts tree collection schedule.
- Informational bill messages.
- Corrective notices used for improper set out of materials.

Exhibit 13

COMMUNITY OUTREACH PLAN

MULTIFAMILY

Roll out:

- Contact multifamily customers March – June 2011 regarding new program: Conduct waste audit and site visit to evaluate space limitations for containers; determine recycle service level; schedule container delivery.
- Manager/Owner Brochure – June 2011: Mail information to owner regarding new mandatory recycling program.
- Tenant Brochure – June 2011: Information managers/owners can distribute to tenants regarding recycling program.
- Move In Packets – July 2011: Create move in packets for managers to give to tenants describing recycling program and other services such as disposal of household hazardous materials.
- July 2011: Continue waste audits and site visits. Contact owner/manager regarding service levels. Provide educational materials for tenants and common areas as needed.
- Provide Recyclables Tote-Bags to tenants.
- Corrective notices used for improper set out of materials.
- Develop door hangers for tenant doors with recycling program details and availability of Recyclables Tote-Bags.

Ongoing:

- Annual brochure for manager/owners regarding program.
- Annual brochure for tenants regarding program.
- Annual Move-In Kits for owners/managers to give to new tenants regarding program.
- Continue waste audits. Prepare report for owners/managers and CITY on findings.
- Distribute tenant Recyclables Tote-Bags.
- Develop recognition program.

COMMERCIAL

Roll Out:

- Contact commercial customers March – June 2011 regarding new program: Conduct waste audits; determine recycle service level; schedule container delivery.
- June 2011: Mail program information to commercial customers who have a recycling program regarding new program and rate changes July 1.
- May 2011: Mail program information to commercial customers who do not have a recycling

Exhibit 13

COMMUNITY OUTREACH PLAN

program regarding new program and rate changes July 1.

- Brochure – June 2011: Mail information to businesses who do not have recycling regarding new mandatory recycling program.
- Provide additional educational material as needed by commercial customers for their employees (stickers, signage, flyers).
- Questionnaire – September 2011: Send out questionnaire to all commercial customers requesting information about their waste stream. Identify types of materials that may be reused or diverted. Create an exchange forum for these materials.
- Food waste recycling will be promoted as soon as program is available. Separate educational materials, in-restaurant containers and technical assistance and training will be provided.

On Going:

- Annual brochure for commercial customers regarding program.
- Continue waste audits. Prepare report for owners/managers and CITY on findings.
- Participate in business organizations and give presentations.
- Provide educational material as needed (stickers, posters, flyers).
- Will coordinate activities with Sustainability Commission.
- Create and promote exchange forum for identifiable materials that would normally go into the waste stream.
- Corrective notices used for improper set out of materials.
- Develop recognition program.

Special Event Recycling

- Will meet with CITY staff to discuss process for encouraging recycling at special events identified in this agreement.
- Work with organizations to implement recycling at their events.

- 1 This page intentionally left blank.
- 2

1

Exhibit 14

LIST OF KEY AGREEMENT DATES

Notice of Delinquent Service (page 24) Notice of discontinued service due immediately to City Manager.

Franchise Fee (8% July 1, 2011; 9% July 1, 2012; 10% July 1, 2013) (page 25) Due on or before October 15, 2011 and quarterly thereafter every January 15, April 15, July 15 and October 15.

Vehicle Impact Fee (\$145,000.00 annually) (page 25) First payment due July 15, 2011 and on the 15th of each month thereafter.

Franchise Extension Fee (\$150,000.00 one-time fee and \$30,000 for 10 years) (page 26) One-time fee of \$150,000 due within thirty (30) days upon execution of this Agreement and \$30,000 on July 1st of each year beginning July 1, 2011 for a total of ten (10) years.

Negotiation Assistance Fee (page 26) One-time fee of \$25,000.00 due within thirty (30) days upon execution of this Agreement.

Tonnage Data (page 26) Due within thirty (30) days upon execution of this Agreement and on the 20th of each month thereafter.

Recyclables Revenue Share (50% of revenue received on amounts over \$100 per ton from sale of Recyclable Materials) (page 26) By July 15, 2012 and each subsequent July 15th

Diversion Requirements (page 27) By December 31, 2012 – minimum diversion of 55%; by December 31, 2013 – minimum diversion of 60%; by December 31, 2014 – minimum diversion of 65%; by December 31, 2015 – minimum diversion of 70%; by December 31, 2016 and each year thereafter – minimum diversion of 75%

Public Outreach and Education Services (page 48) By May 1st annually for the next Agreement Year

Annual Collection Service Notice (page 49) By November 1st annually of each Agreement Year

Big Belly Solar Compactor (page 40) Delivery by July 1, 2011

Equipment Inventory (page 46) Due within thirty (30) days upon execution of this Agreement and on July 1st annually thereafter

Quarterly Reports (page 50) Due twenty (20) calendar days after the end of the reporting quarter

Annual Reports (page 50) Due thirty (30) calendar days after the end of each proceeding calendar year

Performance Bond (\$500,000.00) (page 59) Due within fifteen (15) days upon execution of this Agreement

2

3

- 1 This page intentionally left blank.

ATTACHMENT 1: Street Sweeping Map

LEGEND

Downtown & Commercial Routes Highlighted by Street

- Commercial Routes Every Thursday Night
- Downtown Streets Monday/Friday Mornings

Neighborhoods Highlighted by Areas

- First Monday
- First Tuesday
- First Wednesday
- First Thursday
- First Friday
- Third Tuesday (Industrial)

SPECIAL NOTE: All the 100 blocks off First Street are swept the third Monday of each month.

